

## CHAPTER 4 SALES AND USE TAXES

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## 400 GENERAL PROVISIONS

- 400.1 The District Sales Tax Act (D.C. Code §§47-2001 *et seq.*), as amended (which is referred to in this chapter as the "Act"), imposes a tax upon every vendor in the District selling certain tangible personal property at retail and selling certain selected services defined as selling at retail.
- 400.2 The tax is at the rates set forth in §125 of the Act (D.C. Code §47-2002) upon the entire gross receipts from taxable sales, as defined in the Act.
- 400.3 For the purposes of this chapter, the words, terms, and phrases defined in the Act shall have the same meanings when used in this chapter, unless otherwise required by the context of this chapter.
- 400.4 The provisions of this chapter (so far as applicable and with changes that are necessarily implied) are applicable to the Compensating Use Tax (See: D.C. Code §§47-2201 *et seq.*).
- 400.5 When used in this chapter, the term "Deputy Chief Financial Officer" shall mean the Deputy Chief Financial Officer of the Office of Tax and Revenue ("Office"), or his or her lawfully appointed agent, representative, or designee, and shall include the terms "Assessor" and "Collector" as used in the Act or prior rules and regulations.
- 400.6 When the due date for filing a return or paying a tax under the Act or this chapter falls on a Saturday, Sunday, or legal holiday, the last date for filing the return or paying the tax shall be the first business day following that Saturday, Sunday, or legal holiday.
- 400.7 Effective January 1, 1982, the District shall use a tax return system which is similar to the federal depository system for filing and payment of sales and use taxes.



**AUTHORITY:** Unless otherwise noted, the authority for this chapter is §143 of the District of Columbia Revenue Act of 1949, 63 Stat. 121, D.C. Code §§47-2001 *et seq.*, as amended (1981 Ed.).

**SOURCE:** Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

**EDITOR'S NOTE:** The Office of the Chief Financial Officer of the District of Columbia published a Notice of Public Interest at 44 DCR 2345 (April 18, 1997) changing the name of the "Department of Finance and Revenue" to the "Office of Tax and Revenue."

## **401 PERSONS FURNISHING NON-TAXABLE SERVICES**

401.1 Persons who furnish a nontaxable service are considered consumers of all materials and supplies purchased to operate that business.

401.2 Persons who furnish non-taxable services must reimburse the vendors from whom they purchase materials and supplies for the sales tax.

**SOURCE:** Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

## **402 CASUAL AND ISOLATED SALES**

402.1 Casual and isolated sales under §128(h) of the Act mean sales of an unplanned and non-recurring nature that are made by an individual or an organization which finds it necessary or desirable to dispose of certain items or tangible personal property originally acquired for the person's or organization's own use or consumption.

402.2 Examples of casual and isolated sales include, but are not limited to, the following:

- (a) A housewife or home owner selling a piece of furniture;
- (b) A lawyer selling a set of law books; or
- (c) A church selling a pipe organ or pews for which it has no further use.

402.3 The gross receipts from the sales of food, meals, greeting cards, magazine subscriptions, novelties, toys, jewelry, wearing apparel, household appliances, and other items purchased or acquired by semipublic institutions (such as churches, religious, scientific, and educational organizations or institutions) and by social, fraternal, and benevolent organizations and other organizations or institutions of a similar nature, for the purpose of resale at planned or organized functions, affairs, or campaigns (such as bazaars, luncheons, dinners, suppers, antique shows, rummage sales, house-to-house campaigns, and similar activities) are not considered to be casual and isolated sales and are subject to District sales tax.

**SOURCE:** Administrative Ruling No. 2, 16 DCRR.

## **403 INCONSEQUENTIAL ELEMENTS**

403.1 The Act exempts from the tax the gross receipts from professional, insurance or personal service transactions which involve sales of tangible personal property as

inconsequential elements and where no separate charges for such sales of tangible personal property are made.

403.2 The phrase "sales as inconsequential elements" shall be deemed to include any sales of tangible personal property made in connection with professional, insurance, or personal service transactions where the sales price of the tangible personal property is less than ten percent (10%) of the amount charged for the services rendered in the transaction.

403.3 Gross receipts exempted under this section shall not include the gross receipts from services taxable under §114(a) of the Act, regardless of whether tangible personal property is involved in rendering the service.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890, approved May 9, 1956, 2 DCR 304 (May 21, 1956); and by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383, 4384 (February 12, 1976).

#### 404 INTERSTATE COMMERCE

404.1 The sales tax shall be applicable to the receipts from all sales even though the property sold and delivered in the District is for exclusive use in interstate commerce.

404.2 Receipts from the sale of tangible personal property for use in conducting a business which constitutes interstate commerce shall not be exempt from the tax solely by reason of that fact.

404.3 Receipts from the sale of tangible personal property in the District shall not be exempt by reason of the fact that the vendor delivered the property from outside the District, if the facts and circumstances indicate that the contract of sale would not require, contemplate, or necessarily involve the shipment of goods from outside the District.

404.4 If a registered vendor in the District undertakes to and does, in fact, deliver the property sold to the purchaser outside the District, and consideration for that delivery is included in the sales price as part of the retail sale, the gross receipts from the sale are exempt from the tax unless the property sold is for use, storage, or consumption in the District.

404.5 If a registered vendor in the District undertakes to, and does in fact, deliver the property sold to a resident of the District to a place outside the District and that property is returned to the District by the purchaser, the purchaser shall be liable for a use tax on the purchase price of the property.

404.6 If a registered vendor in the District which has no subsidiary or agent; or office, branch, place of distribution, sample room, or sales place; or warehouse or storage place; or other place of business outside the District undertakes to, and does in fact, deliver the property sold to a place outside the District under circumstances other than those set forth in §404.4 or 404.5, the question of whether that vendor is subject to the sales tax upon the gross receipts from the sale must be resolved



by a determination of whether or not the sale was in fact an interstate transaction.

404.7 Among the criteria for determining whether a transaction was an interstate transaction for the purposes of §404.6, are the following:

- (a) Whether the vendor was licensed to engage in business in the jurisdiction to which the property was delivered by that vendor;
- (b) Whether the vendor had, in connection with the business, during the taxable period, filed any liens, chattel mortgages, or additional sales contracts in the jurisdiction to which the property was delivered by that vendor;
- (c) Whether the sale was C.O.D. at the place outside the District to which the property was delivered by the vendor;
- (d) Whether the property was actually delivered by the vendor in its own equipment or was delivered through a common, private, or contract carrier paid by the vendor; and
- (e) Whether payment for the property sold was made by the purchaser at the place of business of the vendor within the District.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 405 STORAGE, USE, OR CONSUMPTION OF PROPERTY IN THE DISTRICT BY A PURCHASER

405.1 If tangible personal property is purchased (in the District or outside the District) by any person for the purpose of storage, use, or consumption of that property within the District, the purchase is subject to the use tax, based upon its sales price.

405.2 If tangible personal property is purchased within the District and delivery of the property to the purchaser occurs in the District, the D.C. sales tax must be paid, even if the property is subsequently stored, used, or consumed outside the District.

405.3 The provisions of this section do not apply to sales which are exempt from the payment of District sales tax or compensating use tax under the provisions of the Act and this chapter.

405.4 The actual storage, use, or consumption of tangible personal property within the District shall be *prima facie* evidence that the property was purchased for that purpose.

405.5 If the purchaser claims that the purpose for which the property was purchased was not to store, use, or consume the property within the District, the purchaser shall establish that fact to the satisfaction of the Deputy Chief Financial Officer.

- 405.6 If any property has been stored, used, or consumed within the District, the following factors shall not be controlling upon the question of taxability:
- (a) The duration of the storage, use, or consumption; or
  - (b) The fact that the property subsequently has been removed from the District.
- 405.7 If tangible personal property has been purchased outside the District and delivered to the purchaser outside the District, and a sales or use tax on the sale of the property has been properly paid to another jurisdiction, the property is exempt from the District use tax, except as provided in §§405.8 and 405.9.
- 405.8 If property purchased and delivered outside the District is brought into the District, and if the purchaser is entitled to claim a refund of the sales or use tax paid to the other jurisdiction upon removal of the property from the other jurisdiction, the District use tax shall be applicable to the purchase price of the property in accordance with the provisions of §405.9.
- 405.9 If the District use tax is applicable to the property purchased and delivered outside of the District, it shall be paid to the District when the property is brought into the District for use, storage, or consumption, whether or not a refund is actually obtained from the other jurisdiction.
- 405.10 To determine whether property purchased outside the District for storage inside the District is subject to the District use tax, it shall be ascertained whether, at the time of purchase and storage, the property was acquired for use or consumption within or without the District.
- 405.11 If the purpose at the time of purchase and storage of the property in the District is to use or consume it inside the District, the purchase shall be taxable under the Use Tax Act. Under these circumstances the tax shall apply whether the article is actually used or consumed in the District or subsequently shipped out of the District.
- 405.12 If, at the time of purchase, the purpose in storing the article in the District is to use or consume the article outside the District, the purchase shall not be subject to the Use Tax; Provided, that the following facts must subsequently be established:
- (a) The article is never used or consumed inside the District; and
  - (b) The article is actually shipped outside the District and used or consumed outside the District.
- 405.13 Since non-taxability cannot be established until the article is actually shipped out of the District for use or consumption outside the District, the Use Tax must be paid when the article first arrives in the District.
- 405.14 A purchaser may claim a credit or refund for the use tax paid on the portion of the personal property which the taxpayer satisfies the Office was purchased



initially solely for use or consumption outside the District, if the purchaser can substantiate by adequate and acceptable records the following:

- (a) The date of purchase of the item(s);
- (b) The purchase price of the item(s) and the amount of tax paid; and
- (c) The facts required by §§405.12(a) and 405.12(b).

405.15 A claim for credit or refund shall be filed with the Office within a period of one (1) year (See D.C. Code §§47-2020 and 47-2213).

405.16 If tangible personal property is purchased outside the District and delivered to the purchaser in the District, the District Use Tax shall be paid on all such property used, stored, or consumed within the District. However, where such property is purchased for purposes of use or consumption outside the District, stored in the District, and is later removed for use or consumption outside the District, a refund or tax may be claimed within one year from the date the tax was paid thereon in accordance with §140(a) of the District Sales and Use Tax Acts. Claim for refund or credit must be filed on form FR-331.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 62-481 effective March 20, 1962, 8 DCR 225 (April 2, 1962).

#### 406 SALES PRICE: CASH DISCOUNTS

406.1 In addition to the provisions of the Act, (D.C. Code §47-2001(p)(2)), the term "sales price," as used in the Act, shall not include any of the exceptions set forth in this section.

406.2 For the purposes of D.C. Code §47-2001((p)(2)(A), if a vendor quotes to a purchaser a list price with a deduction from that price for a trade discount, the tax shall be computed on the list price less the trade discount.

406.3 A trade discount shall be an expedient for adjusting a list price and is to be deducted in arriving at the true selling price of the property.

406.4 A quantity discount is a trade discount allowed where purchases equal or exceed a predetermined amount and may be excluded from the selling price only when allowed currently.

406.5 No credit or refund may be claimed where quantity discounts are allowed subsequent to the sale to which the discount is applicable.

406.6 If tangible personal property shall be sold subject to a discount for payment within a limited time, the tax applies to the total selling price of the property without any allowance for the discount.

- 406.7 In the case of cash sales where the discount is deducted from the selling price and the net amount due on the sale is paid at the time of sale, the sales price shall not include the discount.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 407 SALES PRICE: LABOR OR SERVICES

- 407.1 In addition to the provisions of the Act (D.C. Code §47-2001(p)(2)), the term "sales price," as used in the Act, shall not include any of the exceptions set forth in this section.

- 407.2 For the purposes of D.C. Code §47-2001(p)(2)(C), the amount charged for labor or services rendered in installing or applying the property sold shall not be subject to the tax if both of the following conditions are met:

- (a) The charges for installation must be shown separately from the sales price of the property; and
- (b) The property must not have been applied or installed as a repair or replacement part of other tangible personal property.

- 407.3 If labor and service charges and sales price are not shown separately, the tax applies to the total amount received from the sale of property and installation charges.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 408 SALES PRICE: TAXES, INTEREST, AND OTHER CHARGES

- 408.1 In addition to the provisions of the Act (D.C. Code §47-2001(p)(2)), the term "sales price," as used in the Act, shall not include any of the exceptions set forth in this section.

- 408.2 The amount of reimbursement of taxes paid by the purchaser to the vendor under the Act shall not be subject to the tax if the reimbursement amount is stated separately from the sales price.

- 408.3 The amount of federal retailer's excise taxes, if any, shall not be subject to the tax if the federal retailer's excise taxes are stated separately from the sales price.

- 408.4 The amount paid by any purchaser as interest, finance charge, or carrying charge shall not be subject to the tax if the amount of interest, finance charge, or carrying charge is stated separately from the amount paid for the tangible personal property or services.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890, approved May 9, 1956, 2 DCR 304 (May 21, 1956).



**409        INSTALLMENT, LAY-AWAY, AND OTHER CREDIT OR DEFERRED  
PAYMENT SALES**

409.1        A vendor making any sale on credit shall report the total sale price of the property sold on the return covering the month in which the sale was made and pay the tax on the sale.

409.2        The term "sale on credit" includes, but is not limited to, the following:

- (a)        A conditional sale;
- (b)        An installment sale; and
- (c)        Any other deferred payment sale.

409.3        If a sale is made on credit, lay-away, budget plan, or other deferred payment plan, the gross sales price becomes taxable when the sale, agreement or other arrangement for transfer of the property from the vendor to the purchaser is made. The vendor shall collect reimbursement for the tax on the total sales price at the time the first payment is made by the purchaser.

409.4        If the purchaser returns the property to the vendor upon rescission of the contract of sale within ninety (90) days of the date of sale and the vendor allows the purchaser credit or cash on the full amount of the sales price charged for the property (including the sales tax reimbursement), the vendor is entitled to a refund of the tax paid; Provided, that the vendor files an application for refund under oath with the Deputy Chief Financial Officer within three (3) years from the date of payment.

409.5        No deduction or refund will be allowed if any property sold on credit is repossessed by the seller or the seller's agent, representative, or assignee.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-346 approved February 16, 1956, 16 DCR 211 (February 27, 1956); and by Final Rulemaking published at 30 DCR 1922, 1926 (April 29, 1983).

**410        BAD DEBTS AND DISCOUNTS ON SALES OF ACCOUNTS RECEIVABLE**

410.1        The District sales tax is required to be reported and paid to the District on the basis of the full amount of the sale price of all property subject to tax.

410.2        Neither the amount of tax required to be reported and paid, nor the time for filing a return or paying the tax to the District is affected by the fact that sales were made on credit or on a deferred payment plan, or by the fact that the accounts receivable may subsequently prove to be uncollectible in whole or in part.

410.3        If a vendor sells or assigns its accounts receivable at a discount, those discounts may not be used to reduce the amount on which the tax is required to be paid, or to obtain a credit or refund.

- 410.4 A deduction shall be allowed from the gross receipts required to be reported in a tax return for any portion of any accounts that are or may prove to be uncollectible; Provided, that any amount so deducted which may thereafter be collected shall be included without a reduction for collection expense in the first return after such collection.

SOURCE: Administrative Ruling No. 16, 16 DCRR; as amended by Final Rulemaking published at 30 DCR 1922, 1926 (April 29, 1983).

**411 TAXABLE SERVICES UNDER CONTRACT PRIOR TO JULY 1, 1989**

- 411.1 Each vendor who sells tangible personal property or provides services pursuant to a lump sum contract entered into prior to July 1, 1989, in which the taxable sales of property or services are included in the price of the contract with nontaxable sales or services, may allocate the taxable and nontaxable values in the contract according to the market value of the services or property provided.
- 411.2 This permission to allocate is not intended to limit the property or services subject to taxation; nor is it intended to authorize any expense deductions that may be part of the selling price of the property or services. This permission to allocate shall only apply to services that became subject to sales and use tax pursuant to the Revenue Amendment Act of 1989.
- 411.3 The Deputy Chief Financial Officer may request copies of contracts and other documentation to support an allocation made pursuant to §411.1.
- 411.4 The Deputy Chief Financial Officer is authorized to disallow an allocation made under §411.1, if it appears that the allocation does not fairly reflect the market value of the services or property provided.
- 411.5 If a vendor does not submit documentation in response to a request by the Deputy Chief Financial Officer, or if the Deputy Chief Financial Officer determines the allocation to be improper, the Deputy Chief Financial Officer may presume the full value of the contract is subject to the sales tax.
- 411.6 Service contracts entered into prior to July 1, 1989, and paid in full before July 1, 1989, shall not be subject to the tax.
- 411.7 Contracts for services performed and completed prior to July 1, 1989, but billed according to the terms of the contract on or after July 1, 1989, shall not be subject to the tax.
- 411.8 Service contracts entered into prior to July 1, 1989, where no services were performed before July 1, 1989, and where services were paid for when the contract was completed after July 1, 1989, shall be subject to the tax.
- 411.9 Service contracts entered into prior to July 1, 1989, where services were performed both before and after July 1, 1989, and where services were paid for when the contract was completed after July 1, 1989, shall be subject to the tax on the entire charge.



SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Final Rulemaking published at 36 DCR 8057 (November 24, 1989).

## 412 COLLECTION OF SALES TAX BY VENDORS

- 412.1 The reimbursement for the tax to be collected by the vendor from the purchaser shall be stated separately from the sales price of the property sold or services rendered.
- 412.2 In the case of a vendor not engaged in business in the District who makes sales at retail and who has been expressly authorized to pay the tax imposed by this title, that vendor shall, at the time of making such sales, collect reimbursement for the tax from the purchaser and give to the purchaser a receipt which shows separately the sales price of the property sold or service rendered and the reimbursement for the tax.
- 412.3 If a vendor collects reimbursement for the tax from the purchaser in excess of the amounts prescribed in §413, or if the vendor collects reimbursement for the tax on any exempt or non-taxable sale or charge, the vendor shall make a refund or credit to the purchaser for the amount of the overcharge.
- 412.4 To the extent that each overcharge has not been refunded or credited to the purchaser, it shall be paid to the District in the same manner and at the same time as the tax required to be paid by the provisions of the Act (D.C. Code §47-2016).
- 412.5 The gross receipts from any sales covered by §414 shall be excluded from the total gross receipts of the seller making such sales and the seller shall neither collect nor add any reimbursement for tax to the consideration charged for such retail sales.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 70-114 effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970).

## 413 AMOUNT OF SALES TAX COLLECTION BY VENDORS

- 413.1 If the gross receipts from any sale are exempt from the tax, the vendor shall not collect reimbursement for any tax from the purchaser.
- 413.2 If a sale is subject to the tax, the vendor shall add to the sales price and collect reimbursement for the tax from the purchaser in the amounts set forth in §§413.3 through 413.8.
- 413.3 For each sale or charge subject to the sales tax at the two percent (2%) rate, a vendor shall collect the following reimbursement:

<u>Range of Sale Price or Charge</u>	<u>Amount of Reimbursement</u>
(a) 1¢ to 12¢ .....	Nothing

- (b) 13¢ to 62¢ ..... 1¢
- (c) 63¢ to \$1.12 ..... 2¢
- (d) For each additional 50¢ of  
sales price, or fraction  
of 50¢ of sales price ..... An additional 1¢

413.4 For each sale or charge subject to the sales tax at the five percent (5%) rate, a vendor shall collect the following reimbursement:

	<u>Range of Sale Price or Charge</u>	<u>Amount of Reimbursement</u>
(a)	1¢ to 12¢ .....	Nothing
(b)	13¢ to 24¢ .....	1¢
(c)	25¢ to 44¢ .....	2¢
(d)	45¢ to 64¢ .....	3¢
(e)	65¢ to 84¢ .....	4¢
(f)	85¢ to \$1.12 .....	5¢
(g)	More than \$1.12 .....	5¢ on each dollar or any multiple of a dollar PLUS the amount due on any additional fraction of a dollar based on (a) - (f)

413.5 For each sale or charge subject to the sales tax at the six percent (6%) rate, the vendor shall collect the following reimbursement: (cents are expressed in decimals of a dollar)

	<u>Range of Sale Price or Charge</u>	<u>Tax</u>
(a)	.09 to .24 .....	.01
(b)	.25 to .41 .....	.02
(c)	.42 to .58 .....	.03
(d)	.59 to .74 .....	.04
(e)	.75 to .91 .....	.05
(f)	.92 to 1.08 .....	.06



- (g) For amounts over one dollar and eight cents (\$1.08), compute the tax based on six cents (6¢) on each dollar or multiple of a dollar plus the amount due on any additional fraction of a dollar based on (a) - (f) of this section.

413.6 For each sale or charge subject to the sales tax at the nine percent (9%) rate, the vendor shall collect the following reimbursement: (cents are expressed in decimals of a dollar)

	<u>Range of Sale Price or Charge</u>	<u>Tax</u>
(a)	.06 to .16 .....	.01
(b)	.17 to .27 .....	.02
(c)	.28 to .38 .....	.03
(d)	.39 to .49 .....	.04
(e)	.50 to .61 .....	.05
(f)	.62 to .72 .....	.06
(g)	.73 to .83 .....	.07
(h)	.84 to .94 .....	.08
(i)	.95 to 1.05 .....	.09
(j)	For amounts over one dollar and five cents (\$1.05), compute the tax based on nine cents (9¢) on each dollar or multiple of a dollar plus the amount due on any additional fraction of a dollar based on (a) - (i) of §413.6.	

413.7 For each sale or charge subject to the sales tax at the twelve percent (12%) rate, the vendor shall collect the following reimbursement: (cents are expressed in decimals of a dollar)

	<u>Range of Sale Price or Charge</u>	<u>Tax</u>
(a)	.05 to .12 .....	.01
(b)	.13 to .20 .....	.02
(c)	.21 to .29 .....	.03
(d)	.30 to .37 .....	.04
(e)	.38 to .45 .....	.05
(f)	.46 to .54 .....	.06

(g)	.55 to .62 .....	.07
(h)	.63 to .70 .....	.08
(i)	.71 to .79 .....	.09
(j)	.80 to .87 .....	.10
(k)	.88 to .95 .....	.11
(l)	.96 to 1.04 .....	.12
(m)	For amounts over one dollar and four cents (\$1.04), compute the tax based on twelve cents (12¢) on each dollar or multiple of a dollar plus the amount due on any additional fraction of a dollar based on (a) - (l) of §413.7.	

413.8 For each sale or charge subject to the sales tax at the eleven percent (11%) rate, the vendor shall collect the following reimbursement: (cents are expressed in decimals of a dollar)

	<u>Range of Sale Price or Charge</u>	<u>Tax</u>
(a)	.05 to .13 .....	.01
(b)	.14 to .22 .....	.02
(c)	.23 to .31 .....	.03
(d)	.32 to .40 .....	.04
(e)	.41 to .49 .....	.05
(f)	.50 to .59 .....	.06
(g)	.60 to .68 .....	.07
(h)	.69 to .77 .....	.08
(i)	.78 to .86 .....	.09
(j)	.87 to .95 .....	.10
(k)	.96 to 1.04 .....	.11
(l)	For amounts over one dollar and four cents (\$1.04), compute the tax based on eleven cents (11¢) on each dollar or multiple of a dollar plus the amount due on any additional fraction of a dollar based on (a) - (k) of this section.	

413.9 [Deleted] 36 DCR 4600a, 4600c (June 30, 1989).



SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 62-481 effective March 20, 1962, 8 DCR 225 (April 2, 1962); as amended by Commissioners' Order 66-1674 effective October 27, 1966, 13 DCR 101 (November 7, 1966); by Commissioners' Order 68-551a effective August 15, 1968, Council Regulation 68-19 effective August 15, 1968, 15 DCR 69 (October 7, 1968); by Commissioners' Order 69-688 effective December 12, 1969, Council Regulation 69-60 effective December 31, 1969, 16 DCR 295 (February 9, 1970); by Council Regulation 72-26 effective November 30, 1972, 19 DCR 408 (December 11, 1972); D.C. Law 1-61, 22 DCR 4583, 4584 (February 12, 1976); by Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3355 (August 1, 1980); and by Final Rulemaking published at 36 DCR 4600a (June 30, 1989).

#### 414 PURCHASES FOR RESALE

- 414.1 If a person purchases tangible personal property (including those items listed in §444) for the purpose of resale; or to use or incorporate the property as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing or refining; the purchaser shall give to the vendor a certificate of resale at the time of or prior to making the purchase.
- 414.2 The certificate of resale shall state the purpose for which the property is purchased, shall show the purchaser's certificate of registration number, and shall be signed and dated by the purchaser.
- 414.3 Each certificate of resale shall be preserved by the vendor and shall be the authority for the vendor not to add reimbursement for the tax to the sales price of the property.
- 414.4 Except in cases where a Specific Exemption Certificate is furnished, or a contractor furnishes a Contractor's Exempt Purchase Certificate as provided in §438, a vendor shall collect reimbursement for the tax unless the purchaser has furnished a certificate of resale.
- 414.5 Certificates of resale which are canceled in accordance with the provisions of the Act and this chapter are void as of the date of publication of the notice of cancellation, as provided in §415.
- 414.6 If a person purchases tangible personal property for purposes other than those enumerated in the certificate of resale, that certificate of resale cannot be used and the purchaser must reimburse the vendor for the sales tax or file a return and pay the tax as a consumer or user under the use tax, as the case may be.
- 414.7 The following form of the certificate of resale may be copied for use by registered vendors and exempted purchasers:

414.7 (Continued)

**CERTIFICATE OF RESALE**

(Purchaser's Certificate)

Furnished under the District of Columbia Sales and Use Tax Acts

Date\_\_\_\_\_

To: \_\_\_\_\_  
(Name of Seller)  
\_\_\_\_\_  
(Address of Seller)

This is to certify that all tangible personal property and services purchased by the undersigned from you will be purchased for use as follows:

- (1) For resale as tangible personal property in the same form as received from you:

[LIST APPLICABLE ITEMS]

- (2) To be incorporated as a material or parts of other tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining:

[LIST APPLICABLE ITEMS]

- (3) Any natural or artificial gas, oil, electricity, solid fuel, or steam purchased from you will be used in manufacturing, assembling, processing, or refining:

[LIST APPLICABLE ITEMS]

This certificate shall be considered a part of each order which we place with you; Provided, that each order will contain our D. C. Certificate of Registration number (or Specific Exemption Certificate number), followed by the applicable number(s) from this certificate - (1), (2), or (3) - to specify which of the items listed above are covered by that order.

This certificate shall continue in force until revoked by notice to you in writing.

\_\_\_\_\_  
(Name of Purchaser)

By: \_\_\_\_\_  
(Title)

D. C. Registration No \_\_\_\_\_  
or)  
D. C. Specific Exemption No \_\_\_\_\_

**NOTE: THE SELLER MUST PRESERVE THIS CERTIFICATE**

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).



**415 CERTIFICATES OF REGISTRATION**

- 415.1 Each vendor engaged in the business of making any retail sales subject to tax under the Act (including manufacturers, wholesalers, jobbers, and others), and every person purchasing tangible personal property for resale or for any other nontaxable purposes shall file with the Deputy Chief Financial Officer an application for a certificate of registration.
- 415.2 Each vendor or purchaser shall file an application for a certificate of registration before commencing business or opening a new place of business.
- 415.3 Certificates of registration shall be issued without charge by the Deputy Chief Financial Officer.
- 415.4 The failure to issue or secure a certificate shall not relieve any vendor or purchaser from the duty of paying the tax imposed by the Act or collection from the purchaser the reimbursement for the tax.
- 415.5 A person not engaging in business in the District but who makes purchases from wholesalers, distributors, dealers, retailers, or any other person(s) in the District for the purpose of resale, shall be entitled to register under the District Sales and Use Tax Acts.
- 415.6 Certificates are non-transferable under the Act (D.C. Code §47-2026) and shall be surrendered immediately to the Deputy Chief Financial Officer when the vendor ceases to do business at the place named in the certificate.
- 415.7 The Deputy Chief Financial Officer may, after notice given in accordance with §151 of the Act, cancel any certificate of registration issued under this section for failure of the registrant to comply with any of the provisions of the law or this chapter.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890 approved May 9, 1956, 2 DCR 304 (May 21, 1956).

**416 UNLAWFUL ADVERTISING**

- 416.1 It shall be unlawful for any vendor to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the reimbursement for the tax or any part of the tax to be collected by the vendor under this chapter will be assumed or absorbed by the vendor.
- 416.2 It shall be unlawful for any vendor to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the reimbursement for the tax or any part of the tax to be collected by the vendor under this chapter will not be added to the selling price of the property sold or the taxable services rendered; or if added to the sales price, that the tax (or any part of it) will be refunded.

- 416.3 Any person violating any provision of this section shall, upon conviction, be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, for each offense.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 417 CERTIFICATES OF EXEMPTION

- 417.1 The Act presumes that all receipts from the sale of tangible personal property or services subject to sales and use tax are from taxable sales at retail and are subject to the tax. The contrary shall be established by the vendor or purchaser.
- 417.2 If the purchaser is the United States, the District of Columbia, or any instrumentality of either, the vendor must show on the record of sale the instrumentality or agency to which the sale was made, the amount of the sale, and date of the sale.
- 417.3 A semipublic institution purchasing property at retail for its own maintenance and operation must obtain from the Deputy Chief Financial Officer a certificate of exemption stating that the institution is entitled to the exemption. If the semipublic institution does not present the certificate of exemption to the vendor, the vendor must collect the reimbursement for the tax.
- 417.4 If a vendor makes sales to a semipublic institution, the vendor must keep a record of the number of the certificate of exemption, the name of the purchaser, the date of each sale, and the amount of the sale.
- 417.5 If a purchaser of tangible personal property is a member of a foreign diplomatic corps and personally presents an identification card issued to that purchaser by the State Department, exempting the person from excise taxes, the card shall be authority for the vendor not to add reimbursement for the sales tax to the sales price of the property; Provided, that the vendor must show on the record of each sale the name of the purchaser, the date of sale, the amount of the sale, and the State Department identification card number.
- 417.6 In order to comply with the provisions of §128(c) of the Act, as amended by the District of Columbia Tax Enforcement Act of 1982 (D.C. Law 4-131; effective July 24, 1982), all organizations exempt from taxes as of the effective date of D.C. Law 4-131 shall be required to reapply for exemption.
- 417.7 Exemption certificates issued under the Act and regulations prior to the effective date of D.C. Law 4-131 shall not be accepted for sales made after December 31, 1982.
- 417.8 The tax shall be collected on sales to entities claiming exempt status on or after January 1, 1983 unless the vendor is presented with an exemption certificate issued under §128(c) of the Act, as amended, and this chapter.



- 417.9 The requirement in the Act that activities be carried on to a substantial extent within the District refers to location, operation (solicitation of funds) and administrative functions within the District.
- 417.10 The following activities shall be considered to determine whether an institution is dispensing substantial benefits within the District:
- (a) Dispensing of direct benefits, including but not limited to grants, scholarships, and other forms of direct assistance conferred upon residents of the District;
  - (b) Expenditures within the District in connection with scientific and research studies, conferences, seminars, and similar activities if such activities result in identifiable benefits to District residents; or
  - (c) Expenditures for payroll, rent, services, and supplies incurred in the District in order to provide the benefits for which the institution was formed; Provided, that such expenditures shall be considered only if it can clearly be shown that they result in direct benefits to resident individuals or businesses. Expenditures (such as payments for social functions, lobbying) not incurred to produce benefits shall not be considered.
- 417.11 The aggregate benefits referred to in §§417.10(a), (b), and (c) shall equal or exceed the following percentages of similar benefits dispensed and expenditures incurred everywhere the institution conducts its activities:
- (a) Five percent (5%), if the institution is national in scope (activities extend to a majority of the States); or
  - (b) Twenty-five percent (25%), if the institution is not national in scope (activities extend to less than a majority of the States).
- 417.12 The location requirement of §128(c) of the Act is not satisfied by a mere statutory office of a registered agent, but refers to a physical location where the activities of the organization are regularly carried on.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Final Rulemaking published at 30 DCR 1922, 1926 (April 29, 1983); by Final Rulemaking published at 30 DCR 3263, 3264 (July 1, 1983); by Final Rulemaking published at 32 DCR 1354, 1359 (March 8, 1985); and by Final Rulemaking published at 36 DCR 8057, 8058 (November 24, 1989).

#### 418 USE OF CERTIFICATES OF EXEMPTION BY SEMIPUBLIC INSTITUTIONS

- 418.1 Tangible personal property purchased and paid for by a semipublic institution which has obtained a certificate of exemption is exempt from the District sales and use tax if the property is for use and consumption in maintaining, operating, and conducting the activities of the institution.
- 418.2 The right to exemption does not apply in any of the following circumstances:

- (a) If the property is not paid for by the institution;
- (b) If the property is not for use or consumption in the maintenance, operation, and conduct of the activities of the institution; and
- (c) If the property is to be given to the institution's members or employees in place of salaries, wages, or compensation.
- (d) If the property is used for carrying on an 'unrelated trade or business' as that term is defined in §513 of the Internal Revenue Code of 1954; or
- (e) If the property is purchased by the organization for the personal use of officials, members or employees of the institution, except as otherwise provided by law.

418.3 The certificate and the exemption number on the certificate shall not be used by any other person or organization to make purchases for or on their behalf or for the purpose of making a donation to the institution.

418.4 A semipublic institution regularly engaged in making sales at retail is required to report and pay to the District the tax on those sales and collect reimbursement for the tax from purchasers.

418.5 A certificate of exemption shall not be used by an institution to make purchases of property for resale.

418.6 Purchases for resale shall be made by using certificates of resale which enables the institution to make the purchases without payment of the tax to the supplier.

418.7 To be entitled to use certificates of resale, an institution shall first file an application for certificate of registration.

418.8 Failure on the part of a semipublic institution to exercise care in the use of its exemption certificate may result in revocation of the certificate.

*The following are examples of purchases of property or services which are not purchases of property or services for use or consumption in the operation, maintenance, and conduct of semipublic institutions, whether paid for directly from the funds of semipublic institutions (or other person) is required to pay the tax on the sale in the same manner as any other person:*

- (a) *Purchases of property or services by or for a clergyman or member of a religious order for personal use, for consumption in his or her individual capacity, and not on behalf of a semipublic institution are not sales to semipublic institutions; and*
- (b) *Any purchase of property or services for which the organization is reimbursed by an official, member or employee of such organization.*

418.9 In the event that the exempt organizations make purchases of property or services as described in this section without payment of the tax, such organizations shall be directly liable to the District for payment of the tax.



SOURCE: Administrative Ruling No. 5, 16 DCRR; as amended by Final Rulemaking published at 30 DCR 1922, 1927 (April 29, 1983).

**419 SALES TO FOREIGN GOVERNMENT AGENCIES, DIPLOMATS, EMPLOYEES, AND MILITARY PERSONNEL**

419.1 By reason of privileges, exemptions, and immunities granted to certain foreign governments, those governments and their agencies (including embassies, legations, and commissions) may make purchases within the District of property or services for use in the conduct of their official activities if paid from their own funds without payment of the sales and use tax.

419.2 A letter of exemption with a separate identification number shall be issued by the District to each agency entitled to exemption under this section.

419.3 Each vendor shall keep a record of the following information with respect to sales to agencies which are exempt under this section:

- (a) The sales price of each sale;
- (b) The date of each sale;
- (c) The name of the purchasing agency; and
- (d) The agency's exemption number.

419.4 Each vendor shall also keep a copy of the purchase order or a copy of the voucher accompanying the payment, and shall obtain the signature of the person making the purchase.

419.5 An employee of an exempt agency may not use the agency's exemption number to make purchases for his or her own personal use and are required to pay the District sales tax unless they are holders of a U.S. Department of State exemption card.

419.6 The Department of State determines, with the approval of the District, which diplomats and other employees of foreign governments are entitled to exemption from District sales and use taxes, and issues to each exempt person an exemption identification card designated "**EXEMPTION CARD**" (Form DS-816).

419.7 The exemption identification card shall bear the following:

- (a) The name of the individual who is entitled to the exemption;
- (b) The individual's official title;
- (c) The name of the country or agency with which the person is connected;
- (d) An assigned identification card number; and

- (e) The exempt individual's photograph and signature.
- 419.8 By showing the exemption identification card to a vendor, the holder shall be entitled to make purchases in the District without paying the District sales or use tax.
- 419.9 When making a tax-free sale to a person holding an exemption identification card, a vendor shall exercise care to be certain of the identification of the purchaser by comparing the purchaser and his or her signature with the photograph and signature on the card.
- 419.10 No sales shall be made on a tax-free basis to any person other than one to whom an exemption card has been issued.
- 419.11 Vendors shall keep a record of sales to persons exempt under this section which shall include the following:
- (a) The name of the purchaser;
  - (b) The date of the sale;
  - (c) The amount of the sale;
  - (d) The Department of State identification card number; and
  - (e) A copy of the signature of the purchaser.
- 419.12 If the Department of State severs diplomatic relations with any country, the diplomats from that country will no longer be allowed to make tax-free purchases and their privileges will be revoked. Vendors will be notified from time to time by the Office of Finance and Revenue of revocations imposed under this section.
- 419.13 Sales to members of armed forces of foreign countries shall be subject to the District sales tax unless they hold a Department of State exemption identification card. District sales tax liability is not affected by Public Law 271, 81st Congress, which grants an exemption from customs duties and import taxes for foreign military personnel.
- 419.14 Vendors shall not accept the following means of identification as the basis for making tax-free sales:
- (a) A "Certificate of Exemption of Foreign Diplomatic Officers and Employees from Motor Fuel Tax." (This card is different from the "**EXEMPTION CARD**" (Form DS-816) issued under §419.6.);
  - (b) A foreign passport or a visa card issued by the U.S. government to a foreign visitor or resident alien;
  - (c) An identification card issued to an exchange student from a foreign nation; or



- (d) The wearing of a uniform by military personnel of foreign governments.

SOURCE: Administrative Ruling No. 22, 16 DCRR.

## 420 SALES TAX RETURNS

- 420.1 Periodic returns (D.C. Code §47-2015) shall be filed with the Deputy Chief Financial Officer on or before the 20th day of the month following the reporting period by the following persons:
- (a) Each vendor who has made any sale at retail during the preceding reporting period which is taxable under the Act;
  - (b) Each retailer (vendor) not engaging in business in the District who is expressly authorized by the D.C. Treasurer to pay the tax and collect reimbursement for the tax, and who has made any sales at retail which are taxable under the Use Tax Act during the preceding reporting period;
  - (c) Each purchaser who purchased services or tangible personal property for use, storage, or consumption in the District during the preceding reporting period, and who has not paid the tax to vendors or authorized retailers; and
  - (d) Each purchaser who has purchased tangible personal property or services for resale, but who has subsequently used or consumed that property or services for non-exempt purposes.
- 420.2 Each vendor who has filed all required periodic sales tax returns shall be deemed to have complied with the requirements imposed on vendors for filing annual returns; Provided, that this presumption of compliance shall not apply if the total amount of the taxable gross receipts for the vendor's tax year exceeds the total of the amounts reported on the vendor's returns for that tax year.
- 420.3 If the taxable gross receipts of any vendor for the vendor's tax year exceed the total of the amounts reported on the taxpayer's periodic returns, the vendor shall notify the Deputy Chief Financial Officer in writing within thirty (30) days after the end of the vendor's tax year.
- 420.4 The notice required by §420.3 shall show the amount of taxable receipts in excess of the amounts already reported.
- 420.5 The vendor shall pay the tax on the excess receipts reported in accordance with §420.3 at the time the report is filed.
- 420.6 [Reserved]
- 420.7 Failure of a vendor or retailer to receive a return form does not relieve that person from the requirement for filing returns. It is the responsibility of the vendor or retailer to obtain the necessary forms from the Deputy Chief Financial Officer if they are not received by mail.

Title 9

District of Columbia Municipal Regulations

- 420.8 Each vendor shall maintain records which will enable the Deputy Chief Financial Officer to audit the vendor's accounts, including those records specifically required to be made or preserved by the provisions of this chapter.
- 420.9 The form of returns shall be prescribed by the Deputy Chief Financial Officer.
- 420.10 Taxpayers whose liability for sales and use tax is less than fifty dollars (\$50) per month shall be placed on an annual filing basis and shall only be required to file a sales and use tax return together with payment annually.
- 420.11 Annual returns for sales and use taxes shall be due on the 20th day of January of each year for the preceding calendar year.
- 420.12 Taxpayers placed on an annual basis shall not be required to file monthly returns or quarterly reconciliations.
- 420.13 If a taxpayer is not placed on an annual reporting basis, the taxpayer shall file monthly tax returns.
- 420.14 A tax return booklet containing monthly tax returns for each month of the tax year which can be detached and used (like a payment coupon) shall be provided to each taxpayer required to file monthly returns. Failure to receive forms or returns does not relieve a taxpayer of the responsibility to file and pay timely.
- 420.15 Tax booklet returns shall be used only to file reports on the type of tax for which intended (**DO NOT USE EMPLOYER'S WITHHOLDING TAX RETURNS FOR REPORTING SALES AND USE TAXES**).
- 420.16 Booklet returns are identified by month and shall be used properly for the period indicated.
- 420.17 Monthly returns and any tax due shall be due and payable in full on or before the 20th day of the month immediately following the month for which the return and payment are due. All information requested on each monthly return shall be completed in order for the return to be properly filed.
- 420.18 Each vendor shall be entitled to apply for a credit against the amount of sales tax payable in an amount equal to the lesser of five thousand dollars (\$5,000) or one percent (1%) of the amount of the collectible sales tax due for each return filed; Provided, that the return is filed and paid on or before the due date of the return. Vendors filing more than one tax return from different locations shall be limited to the five thousand dollars (\$5,000) credit for the aggregate returns.
- 420.19 [Deleted] 36 DCR 8057, 8059 (November 24, 1989).
- 420.20 [Deleted] 36 DCR 8057, 8059 (November 24, 1989).
- 420.21 [Deleted] 36 DCR 8057, 8059 (November 24, 1989).



SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 62-481 effective March 20, 1962, 8 DCR 225 (April 2, 1962); as amended by Commissioners' Order 66-1674 effective October 27, 1966, 13 DCR 101 (November 7, 1966); by Commissioners' Order 68-551a effective August 15, 1968, Regulation No. 68-19 effective August 15, 1968, 15 DCR 69 (October 7, 1968); by Commissioners' Order 70-114, effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970); by Final Rulemaking published at 28 DCR 1323 (March 27, 1981), incorporating 28 DCR 413 (January 23, 1981); by Final Rulemaking published at 30 DCR 1453, 1454 (April 1, 1983); and by Final Rulemaking published at 36 DCR 8057, 8058 (November 24, 1989).

#### 421 EXTENSION OF TIME TO FILE RETURNS

- 421.1 The Deputy Chief Financial Officer may, for good cause shown, extend the time for filing any return for a period not to exceed thirty (30) days.
- 421.2 Failure of a vendor or retailer to receive a return form is not grounds for extending the time for filing any return or grounds for remission of penalties and interest.
- 421.3 Each request for an extension of time shall be in writing addressed to the Deputy Chief Financial Officer.
- 421.4 A request for extension of time to file shall contain concise statements of the reasons why an extension of time is desired.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 422 DISCLOSURE OF SALES AND USE TAX INFORMATION

- 422.1 The Deputy Chief Financial Officer, in his or her discretion, may divulge or make known any information contained in or related to any report, application, license, or return required under the provisions of the Act, in accordance with the provisions and restrictions of this section.
- 422.2 Information contained in any report, application, license, or return which relates to the amount of gross proceeds, or any particular relating to gross proceeds or the computation of gross proceeds shall not be disclosed, except as specifically provided in §422.4.
- 422.3 The Deputy Chief Financial Officer may divulge or make known information, such as the name and address of an individual, the name and address of a corporation, the names and addresses of corporate officers, and such other information which does not relate to the amount of gross proceeds or particulars relating to the computation of taxable gross proceeds.
- 422.4 Notwithstanding the restriction set forth in §422.2, the Deputy Chief Financial Officer may furnish a complete copy of any Sales and Use Tax return to any of the following:
  - (a) Any officer of the District having a right to a copy of the return in his or her official capacity;

- (b) The Internal Revenue Service; or
- (c) The proper officer (or authorized representative) of any State imposing a sales or use tax, if that State grants substantially similar privileges to the Deputy Chief Financial Officer or his or her representatives.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 423 - 429 [RESERVED]

### 430 ADMISSION TO PUBLIC EVENTS

- 430.1 In addition to events listed in the Act, the tax on admissions to public events shall apply to (but is not limited to) admission charges for trade shows, boat shows, home shows, horse shows, and dog shows.
- 430.2 Charges for the use of recreational facilities by persons participating in athletic events, and dues or initiation fees for admission to social clubs shall be exempt from the tax.
- 430.3 Cover or minimum charges by restaurants and other establishments for the sale of food or drink are considered part of the charge for food or drinks consumed on the premises and shall not be taxable as admissions.
- 430.4 If discounts are allowed to sales agents as compensation for sales of tickets, those discounts are considered to be a selling expense which may not be deducted in determining the amount of taxable receipts.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 70-114, effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970); and by Regulation No. 74-44 effective December 27, 1974, 21 DCR 1524 (January 6, 1975).

### 431 ADVERTISING, ADVERTISING AGENCIES, AND COMMERCIAL ARTISTS

- 431.1 Sales by vendors of direct mail advertising pieces, circulars, hand-outs, throw-aways, and similar advertising matter shall be subject to the sales tax on the sales price and reimbursement for sales tax shall be collected from the purchaser.
- 431.2 Advertising agencies shall not be retailers with respect to services of preparing and placing advertising in advertising media.



- 431.3 For the purposes of this section, the term "advertising media" includes, but is not limited to, newspapers, magazines, and other publications; radio and television programs; and billboards and other facilities used in public transportation.
- 431.4 An advertising agency is not a retailer of roughs, comprehensives, or visualizations prepared solely for the purpose of displaying the advertising idea to the agency's clients.
- 431.5 An advertising agency is a purchaser (as a principal) of tangible personal property incidental to the operation of its offices, such as stationery, ink, paint, tools, and office supplies. The tax shall apply to the gross receipts from the sale of these items to an agency.
- 431.6 An advertising agency shall report all purchases subject to the use tax if the sales tax has not been charged.
- 431.7 If an advertising agency (acting as agent for its clients) purchases tangible personal property, the tax applies to the gross receipts from the sale of the property to the agency.
- Examples include purchases of pamphlets, booklets, other printed matter; art work; radio transcriptions; engravings, and electrotypes and matrices.*
- 431.8 Unless an advertising agency acts as a true agent, it is the retailer of the tangible personal property furnished to its clients, and the tax shall apply to the total amount received for the property.
- 431.9 In determining whether an advertising agency acts as a true agent of its clients, consideration shall be given to the contract between the parties, the conduct of the parties with respect to the property involved, and the facts and circumstances of the transaction.
- 431.10 Commercial artists or any other persons or firms engaged in the creation or production of drawings, paintings, designs, photographs, or other art work are retailers of such property sold to advertising agencies for use by the agencies in the rendition of their services, as well as similar property sold to advertisers or others.
- 431.11 The tax shall apply to gross receipts from the furnishing of drawings, paintings, designs, photographs, lettering, assemblies, or other art work used for reproduction as well as display purposes; but does not apply to receipts from services such as roughs or comprehensive visualizations, production supervision, consultations, or research.

SOURCE: Administrative Ruling No. 10, 16 DCRR.

**432 ARTISTS**

432.1 The sale of pictures produced by artists, including, but not limited to, those produced in oil, charcoal, pen and ink, pencil, water colors, pastels, tempera, and similar media, shall be taxable sales.

432.2 The services performed by an artist to clean, repair, or restore any picture described in §432.1 shall be services subject to tax.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

**433 AUCTIONEERS**

433.1 Persons engaged in the business and making retail sales at auction of tangible personal property owned by them or other persons, shall be considered to be retailers for the purposes of the Act, and are required to obtain a certificate of registration and file returns.

433.2 Receipts from the sale of items at auction shall be subject to the tax.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

**434 BOOK MATCHES**

434.1 The gross receipts from the sale of book matches to be used or consumed for any purpose other than resale shall be subject to the tax, including gross receipts from sales of book matches where the matches are given free of charge with cigars, cigarettes, or other tobacco products.

434.2 If a purchaser of book matches purchases them tax-free from a non-registered vendor, or buys them under a Certificate of Resale because a portion of the order shall be resold, the purchaser must pay District use tax on the cost price of that portion of the matches to be given away free of charge, whether given away with the sale of tobacco products or by themselves.

SOURCE: Administrative Ruling No. 8, 16 DCRR.

**435 BOOKBINDING AND RELATED SERVICES**

435.1 Bookbinding and finishing services rendered in connection with the printing of tangible personal property shall be considered an inseparable part of the fabrication or production of a finished article, and as such are subject to tax. However, if the intention of the purchaser is to resell the subject of these services, the purchaser is entitled to issue a resale certificate to the bookbinder and purchase the bookbinding and related services without paying the tax.

435.2 Services performed by bookbinders on tangible personal property owned by the consumer, which is not a complete or finished article of tangible personal



property prior to the rendition of any services by the bookbinder, are considered an integral part of the production or fabrication of tangible personal property, and as such, subject to the tax. These services include all steps in the process of bringing the property to its final completed form, such as collating, folding and stitching, padding and trimming, plastic binding, Acco fastening, tabbing, and paper ruling.

435.3 Services which are taxable when performed in combination with or as a part of any printing of tangible personal property include folding, perforating, cornering, hole punching, scoring, and flat cutting.

435.4 Folding, perforating, cornering, hole punching, scoring, and flat cutting are nontaxable services only when performed alone, or in combination only with each other. Separation of charges for these services on the bill to the customer (if the services are performed with a taxable function) does not make the charges non-taxable.

SOURCE: Administrative Ruling No. 20, 16 DCRR.

#### 436 CATERERS

436.1 The term "caterer," as used in this chapter, means any person who is engaged in the business of preparing food, meals or beverages, for the purposes of consumption at a place designated by the purchaser.

436.2 If a sales agreement with a caterer requires the caterer to prepare and serve food, meals, or beverages, and in addition provides that the caterer shall furnish waiters and other services connected with that preparation and service, the tax shall apply to the total charges, whether or not the charges for preparation and service and the charges for the waiters and other services are separately stated.

436.3 The tax does not apply to charges for an announcer, hat check person, doorman, or other person who is not connected with the preparation or service of food, meals, or beverages; Provided, that charges made for the service of these persons must be separately stated on the invoice and the nature of the service must be adequately described.

SOURCE: Administrative Ruling No. 4, 16 DCRR.

#### 437 COIN-OPERATED DEVICES

437.1 Gross receipts from the sale of tangible personal property through vending machines and other automatic devices are subject to the tax.

437.2 Gross receipts from the sales of food and drink, as described in §114(a)(1) of the Act and defined in §107 of the Act, shall be taxable at the rate of six percent (6%), including the sale of soft drinks, coffee, milk, candy, ice cream, popcorn, and similar items.

- 437.3 Gross receipts from all other sales through vending machines of taxable tangible personal property shall be taxable at the rate of six percent (6%), including (but not limited to) the sale of cigarettes, cigars, perfumes, photographs, handkerchiefs, and various hygienic products.
- 437.4 Persons using vending machines and other automatic devices for the purpose of selling tangible personal property shall obtain a certificate of registration, as provided in §146 of the Act, to engage in the business of selling taxable tangible personal property; must file sales and use tax returns; and must pay the sales tax to the District on the entire gross receipts from sales made through these machines.
- 437.5 One (1) certificate of registration shall be sufficient for all machines operated by a single vendor.
- 437.6 All persons to whom §437.4 applies shall keep adequate and complete records showing the location of each machine owned or operated, the serial number of each machine, purchases and inventories of merchandise bought for sale through each machine, and the gross receipts derived from the operation of each machine during each monthly period.
- 437.7 Persons operating machines through which non-taxable services are dispensed (such as washing machines, dryers, weighing scales, juke boxes, pinball machines, rides, and similar services) shall not be required to obtain a certificate of registration.
- 437.8 The sale or purchase of vending machines and other automatic devices, regardless of the items or services dispensed, and the sale or purchase of parts and equipment for those machines or devices, shall be subject to the sales tax or use tax, whichever is applicable.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890 effective May 9, 19 1956, 2 DCR 304 (May 21, 1956); by Commissioners' Order 62-41 effective March 20, 1962, 8 DCR 225 (April 2, 1962); by Commissioners' Order 66-1674 effective October 27, 1966, 13 DCR 101 (November 7, 1966); the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383, 4384 (February 12, 1976); and by Final Rulemaking published at 32 DCR 1776, 1777 (March 29, 1985).

#### 438 CONSTRUCTION, REPAIR, OR ALTERATION OF REAL PROPERTY

- 438.1 Effective July 1, 1989, pursuant to the D.C. Revenue Amendment Act of 1989, landscaping services and landscaping construction shall be considered sales at retail as defined in D.C. Code §47-2001(n)(1). Therefore, the provisions of this section do not apply to landscaping services construction. (For regulations regarding these services, see §473)
- 438.2 As used in this section, the word "contractor" includes the term "subcontractor."
- 438.3 Under contracts in which the contractor agrees to sell materials used at an agreed price for those materials, or at the regular retail price, and to perform the work either for an additional price or on the basis of time consumed, the contractor is deemed to be a vendor making a taxable sale at retail within the



meaning of the Act and is required to file returns, pay the tax, and collect reimbursement for the tax from the purchaser in the same manner as any other vendor.

- 438.4 In all cases covered by the provisions of §438.3, the contractor is required to furnish a resale certificate to the registered vendor from which the contractor buys the material used, since that transaction constitutes a nontaxable sale for resale.
- 438.5 Under all contracts other than those subject to the provisions of §438.3, and except as otherwise provided in this section, the contractor furnishing material and performing the work of affixing that material to real property so that the material becomes real property shall be deemed the purchaser (consumer) of the materials used and shall either reimburse the registered vendor (wholesaler or retailer) for the tax paid by that vendor, or file returns for the use or consumption of the materials and pay the tax as purchaser (consumer).
- 438.6 Examples of contracts subject to the provisions of §438.5 are those in which the contractor agrees to furnish the following:
- (a) Materials and services for a lump sum;
  - (b) Materials and services on a cost-plus basis; and
  - (c) Materials and services with an upset or guaranteed price which may not be exceeded.
- 438.7 A contractor may, in certain instances, fabricate part or all the articles which the contractor uses in construction work. For example, a sheet metal contractor may partly or wholly manufacture roofing, cornices, gutter pipe, furnace pipe, ventilation ducts, or other such items from sheet metal which that contractor purchases, and use these articles, pursuant to a contract for the construction or improvement of real property. In such instances, the contractor is either a vendor within the meaning of §438.3 or a consumer within the meaning of §438.5.
- 438.8 If a contractor enters into a construction contract with a semipublic institution holding a valid exemption certificate, or with the United States or District governments or instrumentalities of those governments, that contractor may purchase materials and supplies which are to be physically incorporated in and become real property without payment of the tax and shall not charge sales or use tax to the semipublic institution, government, or governmental instrumentality.
- 438.9 In the case of purchases exempt under §438.8, the contractor shall furnish suppliers with a purchaser's certificate in the following prescribed form (Contractors may adapt this form for their use):

438.9 (Continued)

**CONTRACTOR'S EXEMPT PURCHASE CERTIFICATE**

- (1) I hereby certify that I am engaged in the performance of a construction contract on a project for the following named exempt agency or organization; or agency or instrumentality of the United States or District Government; or the semipublic institution (state which): \_\_\_\_\_
- (2) \_\_\_\_\_  
(Name and address of organization, government entity, or institution)
- (3A) The organization holds Exemption Certificate No. \_\_\_\_\_, which was issued by the Deputy Chief Financial Officer, or
- (3B) The agency is, to the best of my knowledge and belief, exempt from the Sales and Use Tax because it is an agency or instrumentality of the United States or District Government or instrumentalities thereof, or semipublic institutions in accordance with §438.8 (state which): \_\_\_\_\_
- (4) This certificate is issued to cover all purchases of materials and supplies to be physically incorporated in and become a permanent part of the project referred to above.

Registration No. \_\_\_\_\_  
(Print No. or "None")

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
(Written Signature of Contractor)

Place: \_\_\_\_\_

\_\_\_\_\_  
(Name of Firm)

\_\_\_\_\_  
(Address of Firm)

**NOTE: THE SELLER MUST PRESERVE THIS CERTIFICATE**

- 438.10 If a contractor is unable to designate the exact amount of materials and supplies to be covered by the exempt purchase certificate, that contractor may estimate the amount of such purchases.
- 438.11 The contractor shall be held strictly accountable for any use tax due to the District on the amount of purchases if there is any use of the materials other than incorporation of the materials into the real property of the exempt semipublic institution or government agency.



- 438.12 The contractor shall maintain adequate records to support the use of materials and supplies purchased with exempt purchase certificates and to show the disposition of all material and supplies purchased by the contractor with exempt purchase certificates.
- 438.13 If a contractor uses materials or supplies in the construction, repair, or alteration of real property for an exempt semipublic institution or government agency, and that contractor has already paid the sales or use tax on those materials or supplies at the time of purchase, the contractor may deduct the purchase price of the same on the next monthly return as an adjustment.
- 438.14 This section does not apply to contracts in which the contractor acts as a vendor of tangible personal property in the same manner as other vendors and is required to install that tangible personal property. In such instances, the contract will not be regarded as one for improving, altering, or repairing real property, even though the tangible personal property is installed in real property. A person performing this type of contract is primarily a retailer of tangible personal property and should segregate the full retail selling price of that property from the charge for installation, as the tax applies only to the retail price of the property. If the retail selling price is not segregated, the tax applies to the entire contract price including the installation charge which should be reported in the contractor's gross receipts, and reimbursement for those charges should be collected by the contractor from the purchaser.
- 438.15 Under a time and materials contract, where the contractor sells labor or service for one price and charges a separate and additional price for the materials, the contractor is deemed to be a vendor making a taxable sale at retail within the meaning of the Act and is required to collect tax reimbursement from the customer, file returns, and pay the tax, the same as any other vendor.
- 438.16 A time and materials contract is the only type of contract that permits a contractor to furnish a Certificate of Resale to a supplier. A Certificate of Resale cannot be used to purchase materials and supplies under any other type of construction contract.
- 438.17 If a time and materials contract is performed in the District for a private business or individual, the District sales tax must be added to the contract sales price of the material. If the contract is with an exempt organization, the contract price of the material is not taxable and no tax reimbursement can be charged.
- 438.18 In lump-sum, cost-plus, and guaranteed-price contracts, the contractor is the user or consumer of the materials purchased. When the contract is with a private business or individual, all of the materials and supplies purchased are subject to tax. The contractor must either pay the sales tax reimbursement to his supplier or he must pay the use tax directly to the District.
- 438.19 Contracts with the United States government, the District government, or with a semipublic institution holding a Certificate of Exemption issued by the Department, permit the contractor to buy tax-free only those materials which are to be physically incorporated in and made a part of real property.

- 438.20 To buy tax-free materials for the types of contracts listed in §438.19, the contractor should not use the Certificate of Resale, but should use the Contractor's Exempt Purchase Certificate prescribed in this chapter.
- 438.21 Any materials and supplies which do not actually become a physical part of (and remain in) the finished job are subject to tax. This is true even if the materials which do not become a physical part of (and remain in) the finished job are completely consumed.
- 438.22 The following list does not include every item subject to tax under §438.21, but is intended to indicate the nature of items subject to tax: concrete curing paper, nails, form ties, acetylene, oxygen, knee boots, concrete chutes, hose couplings, electricity, rope, crayons, fuel oil, form lumber, metal forms, small tools, repair parts for equipment, office equipment and supplies, fencing materials (wire, wood), or rentals of any type of tangible personal property.
- 438.23 Materials used in contracts with foreign governments and public utilities are not exempt and are subject to the tax even if they are incorporated in the real property.
- 438.24 Suppliers shall collect tax reimbursement on all sales to contractors which are not covered by either a Certificate of Resale or a Contractor's Exempt Purchase Certificate.
- 438.25 When the contractor furnishes the supplier with a Contractor's Exempt Purchase Certificate, the certificate does not relieve either the contractor or the supplier from tax liability on materials and supplies sold to the contractor which are not physically incorporated in the job covered by the certificate. Materials or supplies which, by their nature, cannot be physically incorporated in the job are taxable, and the supplier is responsible for collection of the tax.
- 438.26 Whenever a contractor purchases any materials, supplies or equipment, (either in or outside the District of Columbia) which are subject to the District Sales or Use Tax, and on which the tax reimbursement has not been paid to the supplier, the contractor must file a Use Tax Return with the District as required by the Act.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Final Rulemaking published at 36 DCR 8057, 8059 (November 24, 1989).

#### 439 CONTAINERS, CARTONS, BOXES, AND SIMILAR ITEMS

- 439.1 Sales of containers, shipping cartons, bottles, boxes, excelsior, bale binding, and similar items shall be classified into three (3) groups.
- 439.2 The first group shall include those sales in which the container, shipping carton, bottle, box, excelsior, bale binding, or similar item is purchased for delivery with other tangible property sold by the purchaser. Receipts from these sales shall not be subject to the tax.



- 439.3 The second group shall include those sales in which the container (or other item covered by this section) is purchased for consumption by the vendee and not for delivery by the vendee, as described in §439.2. Receipts from these sales shall be subject to the tax.
- 439.4 If tangible personal property shall be sold by a vendor in a container (or other item); and if that vendor will retain title to the container and the container is to be returned to the vendor by the vendee; the vendor is using the container in the conduct of business and is a purchaser for use or consumption. The sale of the container to the vendor is a sale at retail to which the sales tax shall apply.
- 439.5 The third group shall include those sales in which the container (or other item) is purchased by a vendee engaged in rendering services not subject to the sales tax who uses the container in connection with that business. The receipts from these sales shall be subject to the tax.
- 439.6 Charges for the retention of possession of containers (such as gas cylinders) generally referred to as demurrage, are subject to District sales and use tax under the Act. Charges for demurrage are usually made by suppliers of gas to customers for retaining possession of these containers after the expiration of a fixed period of time.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 70-114 effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970).

#### 440 FABRICATION OR PRODUCTION OF PERSONAL PROPERTY

- 440.1 The tax shall be charged on the full sales price for the production or fabrication of tangible personal property on special order, even if charges for labor are segregated from the cost of the materials.
- 440.2 If a new item is being produced, the tax shall be collected on the full sales price.
- For example, if a manufacturer orders a repair part for machinery from a machine shop, the tax must be collected on the full sales price of the part, including labor.*
- 440.3 The tax applies to instances where materials are furnished by the customer and the fabrication of a new item consists of labor only. The following are examples of labor subject to the tax:
- (a) A steel fabricator or machine shop rolling, bending, cutting, boring or punching holes in materials furnished by a customer;
  - (b) A tailor making a suit from materials furnished by a customer;
  - (c) Drapes or slipcovers made from materials furnished by a customer;
  - (d) Printing of tangible personal property from materials furnished by the customer.

SOURCE: Administrative Ruling No. 9, 16 DCRR.

#### 441 FLORISTS

- 441.1 Florists shall be engaged in the business of selling tangible personal property when they sell flowers, wreaths, bouquets, potted plants, and other similar items.
- 441.2 Receipts from sales of the items listed in §441.1 to a retail customer shall be subject to the tax, and the vendor shall collect reimbursement from the purchaser.
- 441.3 Receipts from sales of plants, trees, shrubberies, and similar items which the florist is required to transplant on the land of the purchaser are subject to tax. Florists transplanting these items shall be subject to the tax on landscaping services. (For regulations regarding services, see §473.)
- 441.4 [Deleted] 36 DCR 8057, 8059 (November 24, 1989).
- 441.5 Receipts from an order taken by a florist in the District and telegraphed or telephoned to a second florist outside the District are subject to the sales tax, and the florist taking the order is required to pay the tax.
- 441.6 The receipts from an order received by a florist in the District from another florist located outside the District for the delivery of flowers within the District are not subject to the sales tax, and payment of the tax by the florist in the District is not required.
- 441.7 The receipts from an order received from a customer by a florist in the District which is delivered by that florist to a point or points outside the District by messenger or common carrier are not subject to the tax.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Final Rulemaking published at 36 DCR 8057, 8059 (November 24, 1989).

#### 442 FOOD OR DRINK PREPARED FOR IMMEDIATE CONSUMPTION

- 442.1 In addition to the definition set forth in the Act [which is codified at D.C. Code §47-2001(n)(1)(a)], the term "food or drink prepared for immediate consumption" includes sales made by a street or sidewalk vendor who has no fixed place of business, even though the vendor does not sell from a vehicle.
- 442.2 For the purposes this section, the term "food or drink prepared for immediate consumption" does not include food or drink sold or intended to be sold by grocery stores, supermarkets, delicatessens, or other grocery-type food stores for home preparation or consumption.
- 442.3 If a business combines the sale of food or drink for home preparation or consumption with the sale of food or drink for immediate consumption, those sales of food or drink for home preparation or consumption shall be exempt only



when sold in the same form, quantities, and packaging as is commonly sold in grocery type food stores.

- 442.4 The owner or operator of any hotel, inn, tourist camp, tourist cabin, boardinghouse, or any other place furnishing meals or food together with rooms, lodgings, or accommodations to the public shall segregate and charge separately the sale price of such meals or food from any other charges to their customers.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 62-481 effective March 20, 1962, 8 DCR 225 (April 2, 1962); by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383, 4384 (February 12, 1976); and by Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3354 (August 1, 1980).

**443 FOOD SERVED OR SOLD TO STUDENTS, PATIENTS, EMPLOYEES, FOOD STAMP RECIPIENTS, AND OTHERS**

- 443.1 Meals and food products served, with or without charge, by a semi-public personal or professional service institution or organization (which holds a Certificate of Exemption issued under the provisions of the Act) to pupils, students, or patients are not subject to the sales tax whether or not prepared by such institutions. The furnishing of such meals and food products is considered to be exclusively for the purpose of maintaining, conducting, and rendering the service for which those institutions or organizations are organized and operated.
- 443.2 Meals and food products prepared and served by a convalescent home, educational institution, hospital, or similar institution which does not qualify as a semi-public institution under the Act (D.C. Code §47-2001(r)) to students, teachers, doctors, nurses, and employees, where no separate charge is made, are not subject to the sales tax; Provided, that if the non-exempt institution purchases food prepared by others, those purchases shall be subject to the tax.
- 443.3 Sales of tangible personal property, including meals, foods, or drink, as provided in §114(a)(1) of the Act by a semi-public institution, or any other entity, to employees, doctors, nurses, or the general public shall be retail sales subject to the sales tax.
- 443.4 Sales of tangible personal property, including meals and food products by any person other than a semi-public institution on the premises of semi-public or other institutions shall be subject to the tax.
- 443.5 Meals or food furnished to employees or others shall not be considered sales if those meals or food are furnished instead of cash and recorded as part of the employee's compensation, or if those meals or food are furnished to the employees or others for the employer's convenience.
- 443.6 Meals sold to employees in the same manner as meals shall be sold to the public, or meals which are sold in cafeterias, dining rooms, lunch counters, or other places operated for employees are taxable sales.

- 443.7 Sales of eligible foods, as defined in the Code of Federal Regulations at 7 CFR §271.2, purchased with food stamps issued by the United States Department of Agriculture shall not be subject to the sales tax.
- 443.8 For purposes of this section, the term “eligible foods” means the following items:
- (a) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;
  - (b) Seeds and plants to grow foods for the personal consumption of eligible households;
  - (c) Meals prepared and delivered by an authorized meal delivery service to households eligible to use food stamps to purchase delivered meals, or meals served by an authorized communal dining facility for the elderly, for Supplemental Security Income households or both, to households eligible to use food stamps for communal dining;
  - (d) Meals prepared and served by a drug addict or alcoholic treatment and rehabilitation center to eligible households;
  - (e) Meals prepared and served by a group living arrangement facility to residents who are blind or disabled recipients of benefits under Title II or Title XVI of the Social Security Act; and
  - (f) Meals prepared by and served by a shelter for battered women and children to its eligible residents.
- 443.9 Food stamps issued by the United States Department of Agriculture shall not be used to purchase the following items:
- (a) Alcoholic beverages;
  - (b) Tobacco or cigarettes;
  - (c) Household supplies;
  - (d) Soaps;
  - (e) Paper products;
  - (f) Medicines or vitamins;
  - (g) Any other nonfood items;
  - (h) Food that will be eaten in the store;
  - (i) Hot foods that are ready to eat, such as barbecued chicken; and
  - (j) Pet foods.



- 443.10 Sales of the following representative items purchased for immediate consumption shall be taxable when the foods listed are purchased with cash in the quantities indicated, but exempt when the foods are purchased with food stamps:
- (a) Half-pint containers of milk;
  - (b) Candy bars (fewer than six);
  - (c) Can or bottled sodas (fewer than six);
  - (d) Cold sandwiches; and
  - (e) Certain other foods packaged and purchased for immediate consumption.
- 443.11 Sales of eligible foods such as those listed in §443.10(a), (b) and (c) shall be exempt from sales tax if sold in larger quantities whether purchased with cash or food stamps.
- 443.12 If a sale combines taxable eligible food items, such as those listed in §443.10, with nontaxable eligible food items, and if the purchase is to be made in part with food stamps and in part with cash, the vendor shall allocate the food stamps to the taxable food items first, then to the nontaxable food items.

*For example: A customer arrives at the check-out stand with five dollars (\$5.00) in food stamps and five dollars (\$5.00) in cash. The amount of the purchase totals eight dollars (\$8.00) of nontaxable eligible food in two dollars (\$2.00) of taxable items first and then allocate the remaining three dollars (\$3.00) of food stamps to the nontaxable food items. Thus, in this case, no sales tax would be collected.*

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Final Rulemaking published at 34 DCR 8161 (December 18, 1987).

#### 444 GAS, OIL, SOLID FUEL, AND STEAM

- 444.1 Sales of natural or artificial gas, oil, electricity, solid fuel or steam are exempt from the payment of sales tax, except as provided in this section.
- 444.2 The sales tax applies to the receipts from the sale of natural or artificial gas, oil, electricity, solid fuel or steam when made to any purchaser for purposes other than resale or for use in manufacturing, assembling, processing or refining.
- 444.3 Sales for resale include only such sales when made to persons registered under §146 of the Act and only then if that person gives the vendor a certificate of resale.
- 444.4 Receipts from the sale of natural or artificial gas, oil, electricity, solid fuel or steam consumed directly in manufacturing, assembling, processing, or refining (e.g., for operating machinery, lighting, and heating the factory or shop) are exempt from the tax.

## 444.4 (Continued)

*The following are examples of manufacturing, assembling, processing and refining:*

- (a) *Manufacturing - production of ice or fabrication of ornamental iron railings, furniture, awnings;*
- (b) *Assembly - assembly of radios, electric signs, truck bodies;*
- (c) *Processing - cooking in a cannery or restaurant, pasteurizing milk; and*
- (d) *Refining - production of gasoline or fuel oil in an oil refinery.*

444.5 The use of natural or artificial gas, oil, electricity, solid fuel or steam incidental to but closely connected with production, such as lighting drafting rooms where products are designed, operating a first-aid room, and plant air conditioning, are considered as used in manufacturing, assembling, processing, or refining and are not subject to tax.

444.6 Natural or artificial gas, oil, electricity, solid fuel, or steam are subject to tax if consumed in administrative or commercial phases of the business activities listed in §444.5, such as general offices, plant cafeterias (other than processing food), sales and display rooms, retail outlets, garages where trucks for off-premises sales of products are stored and serviced, and similar uses.

444.7 The tax shall not apply to the receipts from any of the types of sales exempted under D.C. Code §47-2005.

444.8 If electricity or gas shall be sold through a meter for a single use, or if oil, solid fuel, or steam shall be consumed in a single unit for a single use, the use determines the taxable status.

444.9 If electricity or gas is sold through a single meter for two (2) or more uses, or if oil, solid fuel, or steam is consumed in a single unit for two (2) or more uses, some of which would be subject to the tax and some of which would not (such as a manufacturing plant and a retail store supplied through one meter or heated by one unit), the larger portion of the use of the service supplied through that meter or consumed in that unit shall determine the taxability of the service. The larger portion of use shall be measured by the relative load for each use or the relative time of operation of each.

444.10 Except as otherwise provided in this section, each purchaser of natural or artificial gas, oil, electricity, solid fuel, or steam for any purpose claimed to be exempt from or not subject to the tax, in order to qualify for the exemption, must present evidence satisfactory to the Deputy Chief Financial Officer that the sale is exempt under the Act and this section, and must obtain from the Deputy Chief Financial Officer a specific exemption to be presented to the vendor.

444.11 After an exemption is presented to a vendor, that vendor shall be relieved from the further collection of reimbursement for the tax until the exemption is



canceled by the purchaser, or is revoked by the Deputy Chief Financial Officer by notice given to both the purchaser and the vendor.

- 444.12 Vendors of natural or artificial gas, oil, electricity, solid fuel, or steam in the District are relieved from the collection of the reimbursement of the tax on sales to the United States through its Executive Departments and to the District of Columbia through its Purchasing Officers, where such purchaser of such natural or artificial gas, oil, electricity, solid fuel, or steam, claims to be an instrumentality of either the United States or the District of Columbia and, therefore, exempt from reimbursing the vendor for the tax. The vendor shall keep a record of sales to these government instrumentalities in the same manner and to the same extent as required in the case of semipublic institutions.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

EDITOR'S NOTE: While it may appear that the sales tax regulations in 9 DCMR §444, conflict with the statutory provisions in both Supp. V of the 1973, D.C. Code (1978) [Title 47, §§2601(14)(a)(4); 2601(14)(a)(7); 2605(1); and 2701(a)(2)]; and the analogous sections of the 1981 Edition of the D.C. Code, [Title 47, §§2001(n)(1)(-); 2005(11); and 2201(a)(1)(-)], this is due to an error in the codification of the D.C. Code, not an error in this DCMR title. The statutory requirement for the application of the sales and use taxes to natural and artificial gas, oil, electricity, solid fuel, and steam was imposed in §§114(a)(4) and §201(a)(2) of the original D.C. Sales Tax Act (P.L. 81-76, 5-27-49). Those provisions were repealed and the §128 exemption added by §§301 and 302 of D.C. Law 1-23 ("Revenue Act of 1975"). The changes were reflected in both the 1978 Supp. V and 1981 Ed. of the D.C. Code. However, the changes made by D.C. Law 1-23 (the repeal of the sales tax on these items) were later repealed by §§401-407 of D.C. Law 1-70, the "Revenue Act of 1976." The restoration of the original provisions was not properly codified by the Congressional staff then responsible for the D.C. Code. The errors were not corrected in the 1981 Edition of the D.C. Code, but will be corrected in the 1982 Supplement.

#### 445 GOVERNMENT PURCHASES AND SALES

- 445.1 In addition to the specific exemptions provided in the Act (D.C. Code §47-2005), gross receipts from the types of sales set forth in this section shall be exempt from the tax imposed by the Act.
- 445.2 For the purposes of sales to the District or Federal governments under D.C. Code §47-2005(1), vendors may treat as nontaxable the receipts from, and shall be relieved from the duty of collecting their reimbursement for tax on, sales to the United States and to the District of Columbia on any purchase order made by any authorized purchasing officer or by contract in which either the United States or the District of Columbia or any instrumentality of either Government is a party.
- 445.3 Sales of publications of the United States and District governments and any instrumentality of either government shall be exempt from the tax.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 446 HOTEL ROOMS, LODGINGS, AND OTHER ACCOMMODATIONS

- 446.1 For the purposes of the Act (D.C. Code §47-2001(n)(1)(C)), a "transient" is a person who has the right to occupy any room or rooms, lodgings or accommodations for a period of ninety (90) days or less during any one continuous stay.

- 446.2 [Repealed] 30 DCR 1922 (April 29, 1983).
- 446.3 [Repealed] 30 DCR 1922 (April 29, 1983).
- 446.4 [Repealed] 30 DCR 1922 (April 29, 1983).
- 446.5 [Repealed] 30 DCR 1922 (April 29, 1983).

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890 effective May 9, 1956, 2 DCR 304 (May 21, 1956); and by Final Rulemaking published at 30 DCR 1922, 1927 (April 29, 1983).

#### 447 LABELS AND OTHER PRINTED MATERIAL SOLD TO MANUFACTURERS

- 447.1 Sales of labels or name plates, and the printing on the labels or nameplates, to manufacturers or wholesale merchants shall be deemed made for the purpose of resale (not taxable) if the purpose of the purchaser is to affix the label or name plate to that purchaser's own products or the container of a product for resale.
- 447.2 Sales of package inserts, individual folding boxes, and set-up boxes, and the printing on the items, to manufacturers or producers to accompany their own manufactured products, and to pass to the ultimate consumer upon final sales of the manufactured product contained or described in the items, shall be deemed made for the purpose of resale and, therefore, not taxable.
- 447.3 Receipts from sales of direction sheets, instruction books, or manuals to a manufacturer, producer, wholesaler, or retail merchant, to be supplied with his or her at no separate charge, are not taxable; Provided, that if a separate charge is made for such sheets, books, manuals or pamphlets, the seller shall collect reimbursement for the tax from the purchaser.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

#### 448 LAUNDRIES, DRY CLEANERS, AND LINEN SUPPLIERS

- 448.1 Receipts from the sale of services for laundering, dry cleaning, or pressing of any kind of tangible personal property shall not be taxable.
- 448.2 The rental of textiles to commercial users shall be taxable, even if laundering or dry cleaning is an essential part of the rental.
- 448.3 Materials such as containers, wrapping paper, twine, soaps, soap powders, detergents, cleaning fluids, and other consumable supplies used in connection with the services of laundering, dry cleaning, and pressing are subject to the sales tax, and the tax shall be paid by laundries, dry cleaners, and linen suppliers purchasing such items. If the tax was not paid at the time of purchase of the items, those purchases shall be reported to the District and a use tax paid on the amount of the purchases.



SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 70-114 effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970); and by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383 (February 12, 1976).

#### 449 MEDICINES, PHARMACEUTICALS, DRUGS, AND MEDICAL DEVICES

449.1 For the purposes of the sales tax exemption for medicines under the Act (D.C. Code §47-2005(14)), the words "medicines, pharmaceuticals, and drugs" shall be deemed to mean any of those items recognized in the *Official United States Pharmacopoeia*, *Official Homeopathic - Pharmacopoeia of the United States*, the *Official National Formulary*, or any supplement to any of these publications.

449.2 Any substance or mixture of substances containing at least one (1) of the recognized medicines, pharmaceuticals, or drugs intended for use in the cure, mitigation, or prevention of disease in man or animals which is so prepared as to be adaptable for such use internally, or by physically applying the same to the man or animal externally in order to penetrate the skin shall be covered by the exemption.

449.3 The exemption shall not apply to any unmedicated substance, even though the substance is to be applied internally or externally.

449.4 For the purposes of the exemption for medical devices under the Act (D.C. Code §47-2005(15)), the word "material" means any item consumed in the treatment of a patient, but shall not include those items used for diagnostic purposes or any items commonly referred to as equipment or tools which are not consumed in the treatment of a patient.

449.5 Weight reducing preparations, such as "Metrecal," "900 Calories," "Caladay," "Instacal," "Nutrament," "Thorocal," "Dietcal," and other similar weight reducing preparations, sold in liquid, solid, or powdered form, shall be foods sold under §107 of the Act.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 70-114 effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970); and by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383, 4384 (February 12, 1976).

#### 450 MORTICIANS

450.1 For the purposes of this chapter, the term "morticians" includes undertakers, embalmers, funeral directors, and others (including corporations) engaged in rendering services similar to the services rendered by "morticians."

450.2 Receipts from sales of tangible personal property by morticians, such as caskets, appurtenances, grave vaults, and clothing, shall be subject to the tax, even though personal services (such as embalming and providing delivery services and other equipment in conducting funerals) are rendered in connection with the sale of these items.

450.3 If a mortician charges a lump sum to customers which covers the entire cost of the funeral (in other words, without separating the charge for services from

charges for tangible personal property in the bill rendered to the customer), the tax shall be imposed upon the fair retail value of all extras or property furnished in addition to that customarily furnished with standard service, plus fifty percent (50%) of the remaining charges after excluding the value of those extras.

- 450.4 The amount charged for a "standard funeral service" shall be based on the sales price of a casket and includes certain services, such as embalming, preparation of the remains, obtaining permits, and transportation. The tangible personal property furnished shall include the following:
- (a) The casket;
  - (b) The body pouch;
  - (c) The registration book; and
  - (d) Acknowledgement cards.
- 450.5 Items of tangible personal property, listed as extras and charged for separately, shall be subject to sales tax on the full sales price of such articles. The following items shall be sold as extras:
- (a) Dresses, suits, slumber robes, burial blankets, underwear, hose, and slippers;
  - (b) Crucifixes, and emblems; and
  - (c) Vaults, urns (including engraving charges), and shipping cases.
- 450.6 If the selling price of the tangible personal property is stated separately from the service charge on any bill to the customer, the tax shall be imposed only upon the selling price of the personal property.
- 450.7 If property and service charges are stated separately, as provided in §450.4, the sale of that tangible personal property to the mortician shall be subject to the provisions of §414 as purchases for resale.
- 450.8 Services including, but not limited to, clergymen, grave openings and closings, church hire, music, singers, and similar services, which are paid for by the mortician and subsequently repaid to him or her by the person(s) engaging the mortician's services, shall not be subject to tax, if those services are separately itemized in the mortician's bill.
- 450.9 If no part of the services of the mortician other than embalming the body, placing the body in a casket, and delivering the body from the District to a point outside the District (either in the mortician's own equipment or by common or contract carrier) takes place in the District, the tax shall not apply to the sale of tangible personal property in connection with those services.
- 450.10 Tangible personal property used or consumed in performing non-taxable services shall include cosmetics, embalming chemicals, hardening compounds, and similar



materials. It is immaterial whether or not the non-taxable services are included in the charges for a standard funeral service or are separately itemized on the invoice. Purchases of these materials shall be subject to use tax if the sales tax was not paid at the time of purchase.

- 450.11 The following items shall be used by a mortician in the conduct of the business and are subject to use tax if the sales tax was not paid at the time of purchase:
- (a) Advertising materials, calendars, pamphlets, fans, hats, pencils, gifts, candles, vigil lites, and flower stands;
  - (b) Soaps and disinfectants;
  - (c) Injection guns, needles, gloves, embalming room equipment, and casket trucks; or
  - (d) Furniture and fixtures.
- 450.12 If a mortician makes a cash expenditure for flowers or any other item of tangible personal property and adds the charge to the customer's bill for those items, the mortician is performing a service for the customer and shall pay the sales tax to the vendor.
- 450.13 Other items of cash expenditure, such as newspaper notices, crematory charges, certificate of death, and opening and closing the grave, shall not be subject to the sales tax.
- 450.14 If no tangible personal property is sold in connection with a "ship-in," the tax shall not apply to any portion of charges for services, whether or not the parlor or chapel facilities are used.
- 450.15 If a casket is furnished or any other tangible personal property is sold in connection with a "ship-in," the tax shall apply.
- 450.16 If no part of the services of the mortician takes place in the District, other than embalming the body, placing the body in a casket, and delivering the body from the District to a point outside the District, either in the mortician's own equipment or by common or contract carrier, the tax shall not apply to the sales of that tangible personal property. However, if the remains are made available in the District for the public or friends to pay their respects, then the tax shall apply.
- 450.17 Persons who shroud bodies are considered to be performing a service. The charge for shrouding shall not be subject to sales tax. Persons who shroud bodies are considered to be the consumers of all materials and supplies which they purchase to operate their businesses, and must reimburse their suppliers (vendors) for the tax.
- 450.18 If a mortician rents limousines and hearses for the conduct of a funeral, the mortician is the lessee and shall pay the sales tax to the lessor or owner of the

equipment, even though the charges are separately stated on the invoice to the customer.

- 450.19 No tax shall be charged to the customer for use of vehicles rented by the mortician, since this service is considered a transportation service and not a rental.
- 450.20 If one mortician rents vehicles to another mortician during a particular period, and a net payment is made by one to the other, each one shall be required to collect and report the sales tax on the gross rental charges for the equipment.
- 450.21 The tax shall be payable for each rental period during which the hearse or limousine is within the boundaries of the District.
- 450.22 If vehicles are rented in the District and removed from the District for the complete duration of any rental period(s), the tax shall not apply to the gross receipts for the period(s) beginning after its removal from the District and ending before its return.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890 effective May 9, 1956, 2 DCR 304 (May 21, 1956).

#### 451 SALES OF MOTOR VEHICLES AND ACCESSORIES

- 451.1 If a motor vehicle or trailer has extra equipment or accessories attached to it at the time of sale, that extra equipment or those accessories shall be considered a part of the motor vehicle or trailer (the sale of which is exempt from the sales tax), and the sales price of the extra equipment and accessories shall be included in the fair market value of the motor vehicle or trailer for purposes of determining the D.C. Motor Vehicle Excise Tax.
- 451.2 If a motor vehicle or trailer is sold to a non-resident and will not be titled in the District, the receipts from the sale of the extra equipment and accessories attached to the motor vehicle or trailer at the time of sale shall not be subject to the tax.
- 451.3 If a chassis is purchased from a District dealer or other person by a non-resident of the District and will not be titled in the District, and subsequent to the purchase of the chassis, a body or any other equipment or accessories are attached to that chassis, reimbursement for the sales tax shall be added to the sales price of that body, other equipment, or accessories if the purchaser takes delivery within the District. The receipts from the sale shall be taxable to the vendor.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).



**452 NEWSPAPERS, MAGAZINES, OTHER PUBLICATIONS, AND RELATED SERVICES**

452.1 For the purposes of this chapter, in order to constitute a newspaper, a publication shall contain at least the following elements:

- (a) It shall be published at stated short intervals;
- (b) When its successive issues are put together, it must not constitute a book;
- (c) It must be intended for circulation among the general public; and
- (d) It must contain matters of general interest and reports of current events.

452.2 Persons engaged in the business of clipping newspapers and selling press clippings sell tangible personal property at retail and shall be required to collect and pay the tax on the entire charge.

452.3 Receipts from the sale of magazines, trade journals, and other periodicals sold to consumers or users are sales at retail subject to the sales tax; Provided, that receipts from the sale of publications of the governments or instrumentalities of the United States and the District, or publications of semipublic institutions, are exempt from the sales tax.

452.4 For the purposes of this section, the phrase "other periodicals," as used in this section, includes newsletters which are prepared for distribution in quantity.

452.5 A printer shall be liable for the tax on the gross receipts from printing and distribution of trade publications, advertising pamphlets, circulars, or similar materials for a publisher, even though no charge is made to the distributee (consumer) by the publisher or printer for those trade publications, advertising pamphlets, circulars or similar materials. Reimbursement for the tax shall be collected by the printer from the publisher.

**SOURCE:** Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Final Rulemaking published at 36 DCR 8057, 8059 (November 24, 1989).

**453 ORTHOPEDIC AND PROSTHETIC APPLIANCES**

453.1 The exemption under §128(p) of the Act shall apply only to particular orthopedic and prosthetic devices individually designed, constructed, or structurally altered for the use of a particular individual to become a brace, support, supplement, correction, or substitute for the bodily structure (including the extremities) of the individual.

453.2 Sales of simple elastic supports (and supports whose effectiveness is secured through use of straps, laces, or pads) which are designed to correct weakened muscular, vascular, or glandular conditions, and are obtainable in standardized forms from regular retail dealers shall not be exempt from the tax.

- 453.3 Sales of form-fitting foundation garments designed primarily as aids to the appearance or comfort of the wearer considered are not exempt even though specially fitted or constructed for the wearer.
- 453.4 Sales of form-fitting foundation garments designed primarily as aids to the appearance or comfort of the wearer considered are not exempt even though purchased at the direction of a physician or pursuant to written advice from a physician.
- 453.5 In order to be included in the category of exempt sales, shoes must be expressly designed and constructed, or reconstructed and fitted to a particular individual to correct an abnormal foot condition or to supplement or substitute for natural inadequacies of a foot or leg.
- 453.6 The addition to stock or standard shoes (termed or advertised as "corrective" or "orthopedic"), or wedges, bars, crescents, pads, wafers, stays, or other similar devices will not serve to classify shoes as exempt under this section; however, the reconstruction of shoes to incorporate mechanical ankle or leg braces will place the shoes in the exempt classification.
- 453.7 Splints, splint materials, plaster cast materials, external pin fixations, and similar items are not exempt when sold to physicians, surgeons, or first-aid units for use in performing their services, unless the items will be resold by the purchaser and the charges for that resale are stated separately from the charges made for any personal services rendered in connection with the items.
- 453.8 If a physician, surgeon, or first-aid unit resells any of the items listed in §453.7, the re-seller must be registered and furnish the supplier with a Certificate of Resale.
- 453.9 Receipts from the sale of the following appliances are taxable regardless of the conditions of design or construction (The list is not all-inclusive, and the taxability of any item not appearing on the list should be determined by reference to the other provisions of this section or by comparison to listed items):
- (a) Abdominal supports, kidney supports, and uterine supports;
  - (b) Obesity supports, maternity supports, and postoperative supports;
  - (c) Trusses, athletic supporters, suspensories, thumb protectors;
  - (d) Surgical shoes;
  - (e) Elastic goods, such as stockings, thigh pieces, leggings, elbow caps, knee caps, wristlets, anklets, arch supports, or bandages;
  - (f) Ear correction caps;
  - (g) Eye shades and shields;
  - (h) Mouth breathing prevention devices; and



- (i) Artificial breasts.

- 453.10 A ruling on the proper tax classification of any doubtful item may be obtained upon written request addressed to the Office.

SOURCE: Administrative Ruling No. 12, 16 DCRR.

#### 454 PARKING FEES: GENERAL PROVISIONS

- 454.1 The exemption from the sales tax on parking shall apply only to parking facilities which are used for residential parking and not to parking facilities which are used solely for nonresidential purposes, even though these facilities are within one half (1/2) mile of an individual's place of residence.

- 454.2 In no event shall the exemption from sales tax on parking be applicable to commercial tenants, parking for commercial purposes, or to vehicles used for commercial purposes.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383, 4384 (February 12, 1976).

#### 455 PARKING FEES: RESIDENTS OF APARTMENTS, CONDOMINIUMS, AND COOPS

- 455.1 Residents of apartment houses, condominiums, and cooperatives who park on the same premises which they occupy as a residence shall not require an exemption card.

- 455.2 For the purposes of this section, the term "same premises" means an area within the building or adjacent to the building or premises owned by the apartment landlord, or the condominium or cooperative, for the purpose of providing parking for its residents.

- 455.3 For the purposes of this section, private individuals who maintain a permanent residence in an apartment hotel, hotel, or motel are considered to be residents of an apartment house.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383, 4384 (February 12, 1976); and by Final Rulemaking published at 24 DCR 8978 (April 21, 1978), incorporating text of Proposed Rulemaking published at 23 DCR 7298, 7299 (March 11, 1977).

#### 456 PARKING FEES: EXEMPTION CARDS

- 456.1 Residents who do not qualify for exemption under §455, and who park within a half (1/2) mile of their place of residence shall apply for an exemption card for the sales tax on parking if they wish to avail themselves of the exemption.

- 456.2 Information to be furnished by residents to obtain an exemption card shall include, but not be limited to, the following:

- (a) The name and address of the applicant;
- (b) The name, address, and lot number (if any) of the parking lot where the applicant intends to park;
- (c) The year, make, and model of the car;
- (d) The applicant's operator's permit or driver's license number;
- (e) The distance between the parking lot and the applicant's residence;
- (f) The purpose for which the vehicle or trailer is used;
- (g) Proof of residence; and
- (h) The applicant's signature.

- 456.3 If an exemption card holder changes his or her place of residence or parking lot, the holder shall surrender the card, and, if appropriate, make application for a new card.
- 456.4 If an exemption card holder disposes of the vehicle to which the card applies, the card holder shall surrender the exemption card.
- 456.5 If an exemption card holder purchases another vehicle, he or she shall apply for a new card.
- 456.6 An exemption card for sales tax on parking shall be required for each vehicle owned or leased by a resident.
- 456.7 Any violation of the Act or the provisions of this section concerning the exemption card may result in temporary or permanent cancellation of the exemption card.
- 456.8 If an exemption card has been canceled under §456.7, the former holder may apply for restoration of the card in accordance with the reapplication procedures required by the Department.
- 456.9 Violation of the provisions of the Act or this section concerning the exemption from sales tax on parking may also subject holders, as well as vendors, to the applicable penalties set forth in the Act.

**SOURCE:** Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383, 4384 (February 12, 1976); and by Final Rulemaking published at 24 DCR 8978 (April 21, 1978), incorporating text of Proposed Rulemaking published at 23 DCR 7298, 7299 (March 11, 1977).



**457 PARKING LOT OPERATORS AND OTHER VENDORS OF PARKING AND STORAGE**

- 457.1 Parking lot operators and other vendors who sell or charge for the service of parking, storing, or keeping motor vehicles or trailers shall be able to fully substantiate any tax-free sales made.
- 457.2 In the case of tax-free sales made to persons who park on the premises where they reside, in accordance with §455, the operator or other vendor shall keep a record of the date of sale, the name of the resident, the residential address of the resident, and the amount of the sale.
- 457.3 Vendors are required to keep records of tax-free sales to persons holding exemption cards which shall include the name of the purchaser, the date of sale, the amount of sale, and the exemption card number for each separate transaction.
- 457.4 If a sale or charge is made on a monthly basis, one record of the sale for the month is sufficient.
- 457.5 If a sale or charge is made on a daily basis, a separate record of that sale or charge shall be kept on a daily basis.
- 457.6 Vendors shall be responsible for honoring an exemption card for sales tax on parking only for the parking lot specified on the card and the motor vehicle described on the card.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by the Third Amendment to the Revenue Act of 1975 Act, D.C. 1-61, 22 DCR 4383, 4384 (February 12, 1976); and by Final Rulemaking published at 24 DCR 8978 (April 21, 1978), incorporating text of Proposed Rulemaking published at 23 DCR 7298, 7299 (March 11, 1977).

**458 PHOTOGRAPHERS, PHOTOFINISHERS, AND PHOTOSTAT PRODUCERS**

- 458.1 The development and printing of pictures; and the sale of films, frames, cameras, completed photographs, photostats, blue prints, and similar items by photographers, photofinishers, and photostat producers are sales of completed tangible personal property which are subject to the sales tax. The tax shall be collected on the total selling price without deduction for the cost of the property sold, labor, service, or any other expense whatsoever.
- 458.2 Persons engaged in the processing of color films who also mount those films in frames are considered to be engaged in the sale of tangible personal property and shall collect the tax on the total charge or selling price.
- 458.3 A person under this section who renders services, such as retouching, tinting, or coloring of photographs belonging to others, is performing a taxable service and shall collect tax from the customer.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890 effective May 9, 1956, 2 DCR 304 (May 21, 1956); and by Commissioners' Order 70-114 effective May 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970).

## 459 PRINTING

- 459.1 For the purposes of the Act, the word "printing", shall include, but not be limited to, letter press printing, lithography, planography, off-set printing, multigraphing, reproduction proofs, mimeographing, intaglio engraving, and imitations of each of these types.
- 459.2 For the purposes of this section, the word "printer" shall include any person engaged in printing.
- 459.3 The receipts derived from the sales to ultimate consumers for printing of tangible personal property upon special order are taxable.
- 459.4 The selling price upon which tax shall be computed shall include all charges for material, labor, and production or fabrication of typography, photo engravings, electrotypes, mats, stereotypes, hand or machine composition, lithographic plates or negatives, author's alterations, art work, binding and finishing services, whether or not the various charges are separately stated.
- 459.5 The charges for furnishing government postage as a part of the printing item, if charged as a separate item, shall not be included in taxable gross receipts. If postage is not charged as a separate item, no allowance shall be made when computing gross receipts.
- 459.6 Persons operating private printing plants in conjunction with their principal business, and persons engaged in the printing of tangible personal property upon special order for a consideration, shall reimburse their vendors or suppliers for the tax upon all sales of tangible personal property and services subject to the sales tax, other than sales of those materials or services incorporated as ingredients or component parts into the printing of tangible personal property sold upon special order for a consideration.
- 459.7 Materials such as paper stock, book covers, stapling wire, thread, bindings, and ink which are sold to a printer to be incorporated, as ingredients or component parts, into the printing of tangible personal property sold upon special order for consideration shall be deemed to have been purchased for resale.
- 459.8 Printers are the ultimate consumers of photoengravings, electrotypes, lithographic negatives or plates, and similar items purchased for their general use in the preparation of printed matter; Provided, that if a printer is required by the customer to furnish and use such property in the printing of tangible personal property upon special order, its purchase by the printer is for resale and shall not be taxable.
- 459.9 Receipts from the sale of hand or machine composition or reproduction proofs by a typographer (or other person) to persons engaged in the printing of tangible personal property are deemed to be for resale and shall not be taxable.



459.10 If the type metal represented in the sale of hand or machine composition or reproduction proofs by a typographer is to be returned to the typographer, the receipts from the sales of that type metal shall not be taxable. However, if it is to be retained by the purchaser, the receipts from the sales of such metal are taxable.

459.11 Type, sorts, leads, slugs, and similar items received from a typographer or other person are considered plant equipment and the receipts from the sale of these items shall be taxable.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 70-114 effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970).

#### 460 PUBLICATIONS AND SERVICES OF ORGANIZATIONS AND ASSOCIATIONS

460.1 The provisions of this section shall apply to organizations and associations located in the District that provide services to members and that publish periodicals for distribution to members or for sale to the public and members.

460.2 Membership dues paid to organizations and associations shall be exempt from the sales tax. Publications and services provided to members as part of the membership dues, without additional charge, shall also be exempt from the sales tax.

460.3 If an organization or association distributes a publication to members without additional charge, printing charges paid for any such publication by the organization shall be taxed as follows:

(a) The sales tax applies to the entire printing charge, if the organization or its agent takes delivery of the total printing order; or

(b) If the organization or its agent takes delivery of less than the entire printing order, the sales tax applies to the portion of the printing charge attributable to the following:

(1) To the amount of the order of which the organization or its agent takes delivery; and

(2) To the amount of the order which is delivered to members in the District.

460.4 If an organization or association sells the publication to members for an amount in addition to the membership dues or fees, or to non-members, the tax shall apply to printing charges and to sales of publications, as set forth in §§460.5 and 460.6.

460.5 The printing charges shall be exempt from the tax, if the organization furnishes the printer with the certificate of resale;

460.6 Subsequent sale(s) of the publication for delivery inside the District shall be subject to tax. Sales of the publication for delivery outside the District shall not be subject to the tax.

460.7 If an organization purchases taxable services, such as data processing or information services, to provide to its members as part of the membership dues, without additional charge, the organization shall be considered the consumer of the taxable services. The organization shall be subject to the sales or use tax if the services are delivered to the organization in the District or delivered to the organization outside the District for use within the District. (See §§474 and 475)

SOURCE: Administrative Ruling No. 15, 16 DCRR; as amended by Final Rulemaking published at 37 DCR 5265 (August 10, 1990).

#### 461 RENTALS, LEASES, AND LICENSES

461.1 For the purposes of the Act and this chapter, the word rental shall include rental, lease, license, or right to reproduce or use tangible personal property.

461.2 Royalties paid, or any other basis of payment, for use of tangible personal property, shall be rentals subject to the tax.

461.3 The tax shall be paid for rentals of films, records, or any type of sound transcriptions to other than theaters and radio and television broadcasting stations.

461.4 The tax shall be paid for rentals of clothing, formal wear, costumes, and articles of similar nature.

461.5 The tax is payable on the rentals of linens, towels, dresses, aprons, caps, coats, uniforms, or any other textiles to restaurants, hotels, motels, beauty parlors, barber shops, and for any other commercial use, the essential part of which includes the recurring service of laundering or cleaning of these items.

461.6 The tax shall be computed on the gross receipts from rentals payable without any deduction whatsoever for expenses incident to the conduct of the business, or for service or maintenance which the lessor might furnish.

461.7 For the purpose of the imposition and payment of the tax each period for which a rental is payable shall be considered a complete sale, such as the following examples:

- (a) In the case of a weekly rate, each week shall be considered a complete sale; and
- (b) In the case of a continuing lease or contract with or without a definite expiration date, where rental payments are to be made monthly or on some other periodical basis, each installment or payment shall be deemed a complete sale at the time the installment or payment becomes payable.



- 461.8 When tangible personal property, including mobile equipment as motor vehicles, trailers, and contractor's equipment, is rented, the tax shall be payable for such rental period during which the property is within the boundaries of the District.
- 461.9 If tangible personal property is rented in the District and removed from the District for the complete duration of any rental period or periods, the tax is not payable on the gross receipts for any period or periods which begin after the removal of the property from the District and end before its return.
- 461.10 If equipment is rented with an operator for a specific period to perform work directed by the lessee, the rental is a taxable sale.
- 461.11 The tax shall not apply to charges for an operator who is hired with rental equipment if the charges for the operator are separately stated in an oral or written agreement, and if the charges are separately stated on the invoice rendered by the lessor to the lessee.
- 461.12 The furnishing of equipment and an operator as part of a contract to perform a specific job in a manner to be determined by the owner of the equipment or the owner's operator shall be considered a service not subject to the tax.
- 461.13 All transactions for the use of equipment and operator in which the consideration is determined on a time basis will be considered rentals subject to tax unless the parties enter into a written contract prior to the use of the property, which contract clearly shows that it is for the performance of a specific job and not the lease or rental of equipment.

**SOURCE:** Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 56-890 effective May 9, 1956, 2 DCR 304 (May 21, 1956); and by the Third Amendment to the Revenue Act of 1975 Act, D.C. Law 1-61, 22 DCR 4383 (February 12, 1976).

## 462 RENTAL OR LEASE OF MOTOR VEHICLES

- 462.1 The rental of limousines, chartered buses, and other motor vehicles with drivers is subject to the tax when the control of the vehicle is exercised by the person to whom the vehicle is furnished, regardless of the method of charging for that use.
- 462.2 A person is deemed to "exercise control of a motor vehicle" if both of the following criteria apply:
- (a) The person has the exclusive use of the vehicle for a given period of time; and
  - (b) The person has the right to direct the manner of the use of the vehicle, whether exercised or not, for that period.
- 462.3 The following are examples of taxable receipts from the rental of motor vehicles:
- (a) Rental of limousines, hearses, and funeral cars to funeral directors;
  - (b) Rental of limousines for weddings;

- (c) Rental of limousines for sightseeing;
- (d) Rental of limousines and other vehicles to private parties; and
- (e) Rental of a taxicab when the taxicab is used for any of the purposes listed in paragraphs (a) through (d).

462.4 The following are examples of non-taxable receipts from the rental of motor vehicles:

- (a) Transportation of passengers by ambulances, buses, and taxicabs;
- (b) Regularly scheduled sightseeing tours over a fixed route.

SOURCE: Administrative Ruling No. 1, 16 DCRR.

### 463 REPAIRS AND ALTERATIONS TO TANGIBLE PERSONAL PROPERTY

463.1 The following shall be subject to the sales tax, regardless of whether the charge for labor is billed separately from the charge for materials:

- (a) Charges for labor or materials to repair, alter, mend, or fit tangible personal property; or
- (b) Charges for labor or materials to apply or install tangible personal property.

463.2 Under this section, the sales tax shall apply to all charges for work and materials used for the following:

- (a) To restore or preserve the condition of tangible personal property;
- (b) To adjust or correct defects in tangible personal property; or
- (c) To alter the size, shape, content, appearance or utilitarian effect of tangible personal property.

463.3 Under this section, the sales tax shall apply to charges for maintenance, preventive maintenance, warranty service, maintenance contracts, and service calls, whether or not repairs are actually made during a service call.

463.4 Under this section, the sales tax does not apply to repairs to real property, or any appurtenances to real property which are classified as real property.

463.5 The tax shall apply to services which involve the applying of tangible personal property as a repair or replacement part of other tangible personal property.

463.6 Charges for repairing or reconditioning shall be taxable whether or not tangible personal property is furnished or transferred as a part of the service.



- 463.7 Generally a service which restores an item of personal property to its original appearance, usefulness, or working order is a taxable repair service.
- 463.8 Automotive repairs which are taxable shall include, but are not limited to, battery recharge, brake adjustment, wheel alignment, wheel balancing, lubrication, motor tune-up, and carburetor adjustment.
- 463.9 Automotive repairs which are non-taxable shall include, but are not limited to, washing, waxing, polishing, diagnostic service, installation or removal of tire chains, towing, rotation of tires, and mounting or removal of snow tires.
- 463.10 Home repairs which are taxable shall include, but are not limited to, the repair of gas and electric stoves, refrigerators, window air conditioners, portable dishwashers, clothes washers and dryers, venetian blinds, storm windows and doors, aluminum and fabric awnings, and the re-upholstering of furniture.
- 463.11 Home repairs which are non-taxable shall be those which are deemed to be repairs to real property, such as repairs to central air conditioning, hot water heaters, furnaces and oil burners, sinks, built-in dishwashers, and garbage disposers.
- 463.12 Miscellaneous repairs which are taxable shall include, but are not limited to, piano tuning, repair of neon and electric signs, wig repair, and film developing and processing.
- 463.13 Miscellaneous repairs which are non-taxable shall include, but are not limited to, automobile club dues, shoeshines, and wig styling.
- 463.14 A component part of an item which is affixed to real property so as to be a part thereof may be removed by the owner or another, taken to a repair shop, repaired and then replaced in the equipment. The repairman's charges are subject to tax as repairs to tangible personal property.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as amended by Commissioners' Order 70-114 effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970).

#### 464 MAINTENANCE AND SERVICE CONTRACTS

- 464.1 A contract for the maintenance of tangible personal property is considered a repair contract and shall be subject to tax, whether paid in one payment or periodic payments.
- 464.2 The tax shall apply to the total amount charged, whether or not any materials are furnished.
- 464.3 Some examples of taxable maintenance contracts are the following:
- (a) Office machines;
  - (b) Electrical signs;

- (c) Manufacturing machinery; and
- (d) Home appliances, such as televisions, refrigerators, washers, and dryers.

464.4 [Deleted] 36 DCR 8057, 8059 (November 24, 1989).

464.5 [Deleted] 36 DCR 8057, 8059 (November 24, 1989).

464.6 [Deleted] 36 DCR 8057, 8059 (November 24, 1989).

SOURCE: Administrative Ruling No. 7, 16 DCRR; as amended by Final Rulemaking published at 36 DCR 8057, 8059 (November 24, 1989).

#### 465 INSTALLATION CHARGES

465.1 Installation charges for any materials or parts which constitute a repair of existing tangible personal property shall be subject to tax.

465.2 Where an installation charge is made in connection with the sale of a new and complete item the installation charge shall not be taxable if separately stated.

*Some examples of exempt installation charges would be in connection with the sale of the following:*

- (a) *Draperies;*
- (b) *Venetian blinds;*
- (c) *Storm windows and doors; and*
- (d) *Wall-to-wall carpeting;*
- (e) *Gas and electric stoves.*

SOURCE: Administrative Ruling No. 7, 16 DCRR.

#### 466 SALES OF REPAIR OR REPLACEMENT PARTS ON AN EXCHANGE BASIS

466.1 In many instances repair or replacement parts for automobiles, electronic equipment, washing machines, electrical appliances, and other equipment are sold on an exchange or trade-in basis, and an allowance is given by the vendor for the value of an old part towards the purchase price of a new, rebuilt, or reconditioned part. This credit may be called an "exchange allowance," "trade-in allowance," "deposit allowance," or "dud allowance."

466.2 The taxable sales price of a new, rebuilt, or reconditioned part shall include the amount of any allowance or credit given for the value of an old part exchanged or traded.



466.3 In some cases, especially in the automotive parts business, the listed price of a part is the exchange price and a "deposit" is charged the customer to ensure that the customer will return with the old part. The deposit shall be considered to be the value of the old part and must be included in the taxable sales price of the new or rebuilt part.

466.4 If the customer has the old part and turns it in at the time of sale, the amount of the deposit usually charged on that particular item shall be added to the exchange price and tax charged on the total.

SOURCE: Administrative Ruling No. 17, 16 DCRR.

#### 467 SERVICE CHARGES AND TIPS

467.1 Charges for room service and other service charges in connection with the serving of food or beverages (including alcoholic beverages) in hotels, motels, inns, cafes, bars, and similar establishments where food or drink are served shall be subject to tax under §116 of the Act.

467.2 Cover, minimum, entertainment, or service charges, whether collected at the door of the establishment or added to the check, shall be taxable at the same rate as the food, drink, and alcoholic beverages served for consumption on the premises.

467.3 If a fixed percentage of the guest check representing gratuities or tips is added to charges for meals and drinks, and the purchaser is afforded no discretion with respect to the amount or method of payment, this charge is subject to the tax even though all or a part of the charge is paid by the vendor to the employees.

467.4 A gratuity or tip is not subject to tax (even though it may be charged to the customer's regular or credit card account and not paid directly to the server, waiter, or waitress at the time of sale or service) if both of the following conditions apply:

(a) The tip is given voluntarily by the customer; and

(a) The amount of the tip is determined by the customer at the discretion of the customer.

SOURCE: Administrative Ruling No. 3, 16 DCRR.

#### 468 STENOGRAPHIC SERVICES, REPRODUCTION, ADDRESSING, AND MAILING

468.1 Charges for copying, photocopying, reproducing, duplicating, mimeographing, blueprinting, photostating, addressing, mailing, and public stenographic services are taxable, regardless of the manner or means of performing those services.

468.2 For the purposes of this section, "mailing" includes folding and inserting for mailing.

468.3 For the purposes of this section, the term "public stenographic services" includes typing services.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954); as mended by Commissioners' Order 70-114 effective March 26, 1970, Regulation No. 70-11 effective March 26, 1970, 16 DCR 387 (April 20, 1970).

## **469 STORAGE WAREHOUSEMEN AND FURNITURE MOVERS**

469.1 For the purposes of this chapter, storage warehousemen, furniture movers, and persons engaged in similar businesses, are engaged primarily in the rendition of a service, and the receipts from such services are not subject to tax.

469.2 Storage warehousemen, furniture movers and other persons covered under this section must reimburse their vendors for the tax on all commodities purchased for use in carrying on their businesses.

SOURCE: Commissioners' Order 54-1415, 1 DCR 4 (July 19, 1954).

## **470 TIRE RECAPPING**

470.1 The gross receipts from the sale of recapped tires (a sale of tangible personal property) are subject to the sales tax.

470.2 The gross receipts from the total charge for recapping a person's tire on special order are subject to the tax (a fabrication or production of tangible personal property on special order for a consideration).

SOURCE: Administrative Ruling #11, 16 DCRR.

## **471 SALES TAX EXEMPTION, AND USE TAX ALLOCATION FOR TELECOMMUNICATION, UTILITY AND PUBLIC-SERVICE COMPANIES**

471.1 The Deputy Chief Financial Officer shall, upon written application of a telecommunication, utility or public-service company, exempt that company from the sales tax under §128(f) of the Act, as amended, and issue a certificate of exemption.

471.2 Tangible personal property and select services subject to sales tax under the Act, purchased and paid for by telecommunication, utility and public-service companies which have obtained a certificate of exemption, are exempt from the District of Columbia sales tax if the property is for use and consumption in maintaining, operating, and conducting the activities of the company which are subject to the gross receipts tax under An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902 (32 *Stat.* 619; D.C. Code §47-2501), as amended, or which



are subject to the telecommunication service tax under the Toll Telecommunication Service Tax Emergency Act of 1989, effective March 1, 1989 (D.C. Act 8-2; 36 DCR 1759; March 10, 1989).

- 471.3 A telecommunication or utility company exempt from the sales tax under this section shall pay a use tax on all purchases subject to the sales tax under the act and subject to the compensating use tax under the District of Columbia Use Tax Act in an amount determined by applying the following three-step formula:

#### Step One

<u>Column (1)</u>		<u>Column (2)</u>		<u>Column (3)</u>		<u>Column (4)</u>
		Gross receipts and/or gross charges on which District gross receipts tax or telecommunication service tax paid in month of Column (1)		Purchases of tangible personal property everywhere in month of Column (1)		
Total District taxable purchases for month	X		X		=	Amount of Column (1) purchases exempt from use tax
		Gross receipts and/or gross charges everywhere for month of Column (1)		District purchases of tangible personal property in month of Column (1)		

#### Step Two

Amount of Column (1) taxable at applicable rate, 6% e.g.		Amount of Column (1) less Column (4) exempted purchases, with the exempted purchases not to exceed Column (1) amount		Applicable sales tax rate, 6% e.g.		Use tax payable to District at applicable rate
	X		X		=	
Total District purchases from Column (1)						

#### Step Three

Add the results of all Step Two applicable sales and use tax rates. Remit to the District total "Use tax payable to the District," as computed in Step Two for all applicable tax rates.

The following are examples of the application of §471.3.

(1) The taxpayer has gross receipts charges from the sale of toll telecommunication service everywhere for the calendar month of one million dollars (\$1,000,000), with one hundred thousand dollars (\$100,000) of those gross charges and/or gross receipts in the District. Purchases of tangible personal property subject to use tax are five hundred thousand dollars (\$500,000), with fifty thousand dollars (\$50,000) in the District. For purposes of this example, a six percent (6%) District sales tax rate applies to forty thousand dollars (\$40,000) of the fifty thousand (\$50,000) in District purchases. The remaining ten thousand dollars (\$10,000) in District purchases are subject to an eight percent (8%) rate. The use tax exemption, and use tax payable to the District, is computed as follows:

## 471.3 (Continued)

## Step One

<u>Column (1)</u>		<u>Column (2)</u>		<u>Column (3)</u>		<u>Column (4)</u>
\$50,000	X	$\frac{\$100,000}{\$1,000,000}$	X	$\frac{\$500,000}{\$50,000}$	=	\$50,000 exemption

## Step Two and Step Three

These steps need not be completed because the exemption equals taxable purchases resulting in no District use tax payable. However, a tax return prescribed by the Mayor shall be filed in this instance, nonetheless.

(2) Same facts as (1) above except that gross receipts or gross charges subject to a District gross receipts tax or toll telecommunication service tax are fifty thousand dollars (\$50,000). The exemption is computed as follows:

## Step One

<u>Column (1)</u>		<u>Column (2)</u>		<u>Column (3)</u>		<u>Column (4)</u>
\$50,000	X	$\frac{\$50,000}{\$1,000,000}$	X	$\frac{\$500,000}{\$50,000}$	=	\$25,000 exemption

## Step Two

<u>6% rate</u>	$\frac{\$40,000}{\$50,000}$	X	\$25,000	=	\$20,000	X	6%	=	\$1,200
<u>8% rate</u>	$\frac{\$10,000}{\$50,000}$	X	\$25,000	=	\$5,000	X	8%	=	\$400

## Step Three

\$1,200 (tax at 6% rate) + \$400 (tax at 8% rate) = \$1,600 (Total use tax payable to the District)

471.4 A public-service company exempt from the sales tax under this section shall pay a use tax on all purchases subject to the sales tax under the act and subject to the compensating use tax under the District of Columbia Use Tax Act in an amount determined by applying the following three-step formula:



## 471.4 (Continued)

## Step One

<u>Column (1)</u>		<u>Column (2)</u>		<u>Column (3)</u>		<u>Column (4)</u>
Total District taxable purchases for month	X	Public-Service miles traveled within the District	X	Purchases of tangible personal property everywhere in month of Column (1)	=	Amount of Column (1) purchases exempt from use tax
		Public service miles traveled everywhere		District purchases of tangible personal property in month of Column (1)		

## Step Two

Amount of Column (1) taxable at applicable rate, 6% e.g.	X	Amount of Column (1) less Column (4) exempted purchases, with the exempted purchases not to exceed Column (1) amount	X	Applicable sales tax rate, 6% e.g.	=	Use tax payable to District at applicable rate
Total District purchases from Column (1)						

## Step Three

Add the results of all Step Two applicable sales and use tax rates. Remit to the District total "Use tax payable to the District," as computed in Step Two for all applicable tax rates.

The following are examples of the application of §471.4:

(1) The taxpayer has public-service miles traveled everywhere for the calendar month of one million miles (1,000,000), with one hundred thousand miles (100,000) traveled in the District. Purchases of tangible personal property subject to use tax are five hundred thousand dollars (\$500,000), with fifty thousand dollars (\$50,000) in the District. For purposes of this example, a six percent (6%) District sales tax rate applies to forty thousand dollars (\$40,000) of the fifty thousand dollars (\$50,000) in District purchases. The remaining ten thousand dollars (\$10,000) in District purchases are subject to an eight percent (8%) rate. The use tax exemption, and use tax payable to the District, is computed as follows:

## Step One

<u>Column (1)</u>		<u>Column (2)</u>		<u>Column (3)</u>		<u>Column (4)</u>
\$50,000	X	100,000 miles	X	\$500,000	=	\$50,000 exemption
		1,000,000 miles		\$50,000		

## 471.4 (Continued)

## Step Two and Step Three

These steps need not be completed because the exemption equals taxable purchases resulting in no District use tax payable. However, a tax return prescribed by the Mayor shall be filed in this instance, nonetheless.

(2) Same facts as (1) above except that fifty thousand miles (50,000) were traveled in the District. The exemption is computed as follows:

## Step One

<u>Column (1)</u>		<u>Column (2)</u>		<u>Column (3)</u>		<u>Column (4)</u>
\$50,000	X	$\frac{50,000 \text{ miles}}{1,000,000 \text{ miles}}$	X	$\frac{\$500,000}{\$50,000}$	=	\$25,000 exemption

## Step Two

<u>6% rate</u>	$\frac{\$40,000}{\$50,000}$	X	\$25,000	=	\$20,000	X	6%	=	\$1,200
<u>8% rate</u>	$\frac{\$10,000}{\$50,000}$	X	\$25,000	=	\$5,000	X	8%	=	\$400

## Step Three

\$1,200 (tax at 6% rate) + \$400 (tax at 8% rate) = \$1,600 (Total use tax payable to the District)

- 471.5 The use tax return required to be filed under this section shall be due and the tax paid by the twentieth (20th) day of the month following the calendar month for which the tax is due.
- 471.6 Each telecommunication, utility and public-service company shall file a return as prescribed by the Mayor even if no use tax is payable therewith.
- 471.7 The numerator and denominator of Column (3) purchases in §§471.3 and 471.4 shall include services subject to sales and use taxes without regard for any exemption from these taxes.
- 471.8 The numerator and denominator of Column (3) purchases in §§471.3 and 471.4 shall include rental payments subject to sales and use taxes under the act and the District of Columbia Use Tax Act without regard for any exemption from these taxes.
- 471.9 The exemption provided for under §§471.3 and 471.4 shall be limited to Column (1) total District taxable purchases for the same calendar month.
- 471.10 No carryforward or carryback shall be allowed for any excess exemption derived from operation of the formulas in §§471.3 and 471.4.



- 471.11 Column (1) total District taxable purchases, as required under the formula set forth in §§471.3 and 471.4, for a calendar month shall include all purchases of tangible personal property and services subject to sales or use taxes without regard for any exemption from these taxes.
- 471.12 If the allocation provisions of this section do not fairly represent the extent of the sales tax exemption provision under the Act, as amended, the taxpayer may petition for, or the Mayor may require, the employment of any other method to effectuate an equitable allocation of the taxpayer's sales tax exemption.

SOURCE: Final Rulemaking published at 34 DCR 6143 (September 25, 1987; as amended by Final Rulemaking published at 36 DCR 2478 (April 7, 1989).

## 472 REAL PROPERTY MAINTENANCE

- 472.1 Gross receipts from the sale of or charges for the service of real property maintenance shall be subject to the tax. For the purpose of this section, the term "real property maintenance" means the activities of keeping the land or premises of a building clean, orderly and functional, including performing minor adjustments, maintenance or repairs.
- 472.2 Examples of keeping the land or the premises of a building clean, orderly and functional include, but are not limited to, the following:
- (a) Wall and ceiling cleaning;
  - (b) Pest control;
  - (c) Exterior and interior window cleaning;
  - (d) Floor (hardwood or tile) cleaning;
  - (e) Restroom cleaning and stocking;
  - (f) Exterior and interior trash removal;
  - (g) Maintenance of inground or indoor swimming pools;
  - (h) Exterior building cleaning;
  - (i) Chimney and duct cleaning;
  - (j) Parking lot, garage and recreational area maintenance; and
  - (k) Ground maintenance, including:
    - (1) Fertilizing;
    - (2) Thatching;

- (3) Mulching;
- (4) Seeding;
- (5) Edging; and
- (6) Aeration.

472.3 The term "real property maintenance" shall not include activities such as painting, wallpapering, or other services performed as part of construction or major repair services performed under an employee-employer relationship, or services performed by persons who are not considered to be regularly engaged in business.

472.4 For the purpose of this section, an "employer-employee relationship" exists if the employer exercises or has the right to exercise control over the individual in the performance of services under the usual common law rules applicable in determining the employer-employee relationship, not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. Workers provided under temporary help service contracts or under other agreements are not considered employees for the purpose of this section.

472.5 Whether the relationship of employer and employee exists shall be determined, when the issue arises, upon an examination of the particular facts of each case.

472.6 A maintenance or janitorial contract includes minor adjustments, maintenance or repairs that are performed on the land or building. These tasks are performed in the normal course of the contract and are usually performed with small tools (hammer, screw driver, pliers, etc.). Examples of minor adjustments include, but are not limited to, bulb, fuse and filter replacements; wall plate replacements; oiling of motors or other movable items; motor screw adjustments; installation of peepholes, kickplates and mailslots; and installation of doorstops and weather stripping.

472.7 Minor adjustments shall not include a complete overhaul of any equipment associated with the real property. If a District building permit is needed, the task shall not be considered to be minor. Examples of repairs that are exempt from the tax include the following:

- (a) Replacement of sinks, garbage disposals, toilets, tubs;
- (b) Major repairs to hot water heaters;
- (c) Additions to electrical panels; and
- (d) Replacement of shingles or siding.



- 472.8 Inground or indoor swimming pool maintenance includes seasonal services such as winterization, spring start-ups, chemical treatments, pump and filter cleaning, vacuum cleaning, wall cleaning and scrubbing and any necessary minor repairs. Inground or indoor swimming pool maintenance shall not include retiling or other major repairs such as overhaul of the heating system, pumping, or electrical systems.
- 472.9 Parking lot, garage and recreational area maintenance includes services such as sweeping, cleaning, pressure washing, vacuuming, mowing and snow removal. Real property maintenance for parking lots, garages and recreational areas shall not include pavement patching, asphalt repair, sealing, grading, or installing wheelstops.
- 472.10 Pest control consists of the services of identifying, preventing, controlling, or eliminating, by use of chemical or mechanical means, infestation of any of the following:
- (a) Insects, including, but not limited to, spiders, mites, ticks, ants, and bees;
  - (b) Wood infesting organisms;
  - (c) Rodents;
  - (d) Nuisance birds;
  - (e) Any other undesirable animals or pests that may infest buildings; and
  - (f) Pest infestations or diseases of trees, shrubs or other plantings.
- 472.11 Trash removal service includes the removal of waste, refuse and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial operations, commercial operations, and institutional activities.
- 472.12 Vendors providing real property maintenance services may issue a resale certificate on all tangible personal property that will be sold or transferred as part of the taxable service or taxable contract. Items such as brushes, mops, brooms, and wiping cloths that are consumed in performing or used to perform taxable real property maintenance services shall not be considered to be sold or transferred as a part of the taxable service; therefore, such items shall not be purchased with a certificate of resale. Examples of materials for which a vendor may issue a resale certificate include the following:
- (a) Cleaning compounds;
  - (b) Plastic liners;
  - (c) Soap, paper and toiletry supplies;
  - (d) Pest control chemicals, foggers and traps;

- (e) Light bulbs and fixtures;
- (f) Odor controls; or
- (g) Wax and maintenance chemicals.

- 472.13 Vendors providing temporary help to perform real property maintenance shall be required to collect the sales tax on the charges for that service. The tax shall be collected even if the temporary help performs some inconsequential nontaxable services. Vendors providing temporary help for nontaxable services shall not be required to collect the tax if that help also performs some inconsequential taxable real property maintenance services. Temporary help includes maids-for-hire performing real property maintenance services for domestic purposes as well as commercial purposes.
- 472.14 Property management companies that are responsible for the management of properties in the District of Columbia shall not be considered vendors. Those companies shall be considered consumers of all materials and services purchased to manage the property, including the services of subcontractors. Vendors, including subcontractors, providing materials and services to property management companies shall be required to collect the sales tax on the charges to these companies. For the purposes of this section, a property management company is a company providing mixed taxable and nontaxable services, such as real property maintenance and rent collection, to manage property for a contracted fee.
- 472.15 Property management companies providing real property maintenance services through their own employees shall not be required to collect the sales tax on the charges for these services.
- 472.16 Property management companies shall be considered vendors if they provide taxable services outside of the property management contract or if they solely provide taxable services, either through their own employees or through subcontractors. As vendors, they may issue a certificate of resale for the materials and services they purchase in accordance with §472.12.
- 472.17 All other persons performing services usually provided by property management companies shall be considered consumers of all materials and services purchased to manage the property.
- 472.18 Real property maintenance services performed on the construction site shall not be considered "other services performed as part of construction." Real property maintenance services, such as trash hauling, window cleaning, building cleaning, or any of the services listed at §§472.2, 472.6, 472.8, 472.9, 472.10 and 472.11, performed on the construction site shall be subject to the District sales tax. "Other services performed as part of construction" includes such services as plumbing, wiring, masonry work, and other major repairs, additions, or improvements to real property.
- 472.19 A vendor purchasing real property maintenance services from another vendor may issue a resale certificate for the taxable services rendered. The certificate



shall be preserved by the vendor accepting the certificate and shall be the authority for that vendor not to add reimbursement for the tax to the price of the service.

*For example, Company A is performing a janitorial contract for XYZ Management Company. Included in the contract are services for window cleaning and trash removal. These services are subcontracted to B and C. Company A may issue a certificate of resale to B and to C. Neither B nor C would collect tax from Company A for the services they rendered. However, Company A would collect tax from XYZ.*

SOURCE: Final Rulemaking published at 36 DCR 8057, 8059 (November 24, 1989).

## 473 LANDSCAPING

473.1 Landscaping is the activity of arranging or modifying an area of land or natural scenery, by planting, removing or replacing plant life or by altering the contours of the ground. The services of landscaping and landscape construction, design, and architecture are taxable. Examples of services subject to tax under landscaping include, but are not limited to, the following:

- (a) Landscape consultation, research, or design;
- (b) Landscape site planning, analysis, or assessment;
- (c) Selection of plant materials;
- (d) Stump and tree removal;
- (e) Transplanting trees, shrubs, and other vegetation; or
- (f) Planting or replacing flowers, shrubs, trees or other vegetation.

473.2 Further examples of services which are taxable when performed under a landscaping contract include the following:

- (a) Installation of railroad ties, timberwork, or stonework;
- (b) Installation of fencing, patios, walkways, or decks;
- (c) Installation of retaining walls, drainage, or sprinkler systems;
- (d) Installation of ponds; or
- (f) Grading and sodding.

473.3 Vendors providing landscaping services or performing landscaping contracts may issue a resale certificate on all tangible personal property that will be sold or transferred as part of the taxable service or taxable contract.

*For example, a landscape contractor who purchases trees and shrubs for installation may issue a resale certificate for those materials.*

- 473.4 Vendors providing temporary help to perform landscaping services shall be required to collect the sales tax on the charges for that service. The tax shall be collected even if the temporary help performs some inconsequential nontaxable services. However, vendors providing temporary help for nontaxable services shall not be required to collect the tax if that help also performs some inconsequential taxable landscaping services.

SOURCE: Final Rulemaking published at 36 DCR 8057, 8064 (November 24, 1989).

#### 474 DATA PROCESSING SERVICES

- 474.1 Gross receipts from the sale of or charges for data processing services shall be subject to the tax. For the purpose of this section, the term "data processing services" means the processing of information for the purpose of compiling and producing records of transactions, maintaining information, and entering and retrieving information. It also includes word processing, payroll and business accounting, and computerized data and information storage and manipulation.
- 474.2 Examples of data processing services include the following:
- (a) Entry of inventory control data for a company;
  - (b) Maintenance of records of employee work time;
  - (c) Filing payroll tax returns;
  - (d) Preparing W-2 forms; or
  - (e) Computing and preparing payroll checks.
- 474.3 Data processing services shall not include the use of a computer by a provider of other services when the computer is used to facilitate the performance of the service or the application of the knowledge of accounting principles and tax laws. Purchasers of data processing services used to perform professional services, such as accounting and legal services, shall be considered consumers of the data processing services and thus shall be subject to the tax on the services.
- 474.4 Gross receipts from the sale, lease or rental, or maintenance of any computer software shall be subject to the tax regardless of whether the software is canned, prepackaged or customized. Examples of taxable computer software and software services include the following:
- (a) System software;
  - (b) Application software;
  - (c) Computer programming;
  - (d) Software modification; or



(e) Software updating.

474.5 Data processing services performed, purchased, or delivered outside of the District but subsequently brought into the District for use or consumption shall be subject to the District use tax; Provided, that no sales tax was required to be paid to the other jurisdiction. Data processing services performed or delivered outside of the District for use within other jurisdictions as well as for use within the District shall be subject to the District use tax on a prorated share of the charge; Provided, that no sales tax was required to be paid on that prorated share to the other jurisdiction. Data processing services sold and delivered by the vendor to locations outside of the District shall be exempt from the sales tax.

474.6 Vendors providing data processing services may issue a resale certificate on all tangible personal property or services purchased for resale or rental either in the same form or for incorporation in the same form as a material part of other property or services being produced or provided for resale or rental.

*For example, if a service were sold to the customer on magnetic tape, the tape may be purchased with a certificate of resale.*

474.7 Vendors providing temporary help to perform data processing services, including consultation, computer programming, and software alteration, modification, and updating shall be required to collect the tax on these services. The tax shall be collected even if the temporary help performs some inconsequential nontaxable services. However, vendors providing temporary secretarial and clerical help who also perform some inconsequential data processing services shall not be required to collect the tax.

SOURCE: Final Rulemaking published at 36 DCR 8057, 8065 (November 24, 1989).

## 475 INFORMATION SERVICES

475.1 Gross receipts from the sale or charges for information services shall be subject to the sales tax. For the purpose of this section, the term "information services" includes furnishing general or specialized news or current information by printed, mimeographed, electronic, or electrical transmission, or by utilizing wires, cables, radio waves, microwaves, satellites, fiber optics, or any other method now in existence or which may be devised, and electronic data retrieval or research.

475.2 Information which is gathered, maintained, or compiled and made available by the provider of the information service to the public or to a specific segment of industry for a consideration shall be subject to sales tax.

475.3 Information services, whether sold by subscription or on an as-needed basis, shall be taxable.

475.4 Information services shall include the following:

(a) Credit reports;

- (b) Newsletters;
- (c) Financial;
- (d) Investment;
- (e) Stock market;
- (f) Bond rating reports;
- (g) Wire service information;
- (h) Scouting reports and surveys; and
- (i) Real estate listings.

- 475.5 Charges to a person by financial institutions for account balance information shall not be subject to the tax.
- 475.6 The sale of information which is gathered or compiled on behalf a particular client shall not be subject to tax if the information is of a proprietary nature to that client and may not be sold to others by the person who gathered or compiled the information. However, this exclusion shall not apply to the sales of software which are taxable under §474 of this chapter. Any subsequent sale of such information by the client for whom the information was gathered or compiled is subject to the tax.
- 475.7 Vendors providing information services may issue a resale certificate on all tangible personal property or services purchased for resale or rental either in the same form or for incorporation in the same form as a material part of other property or services being produced or provided for resale or rental. For example, if information is to be sold on a cassette tape, the vendor could purchase the tape with a resale certificate.
- 475.8 Information services performed, purchased, or delivered outside of the District but subsequently brought into the District for use or consumption shall be subject to the District use tax; Provided, that no sales tax is required to be paid to the other jurisdiction.
- 475.9 Information services performed or delivered outside of the District for use within other jurisdictions, as well as for use within the District shall be subject to a prorated share of the District use tax; Provided, that no sales tax was required to be paid on that prorated share to the other jurisdiction. Information services sold and delivered by the vendor to locations outside of the District shall be exempt from the sales tax.
- 475.10 Subscriptions to cable television shall not be considered to be information services and shall not be taxable.
- 475.11 Vendors providing temporary help to perform information services shall be subject to the tax on these services. The tax shall be collected even if the



temporary help performs some inconsequential nontaxable services. However, vendors providing temporary help for nontaxable services shall not be required to collect the tax if that help also performs some inconsequential taxable information services.

- 475.12 Purchasers of information services used to perform professional services, such as accounting and legal services, shall be considered consumers of the information services and thus shall be subject to the tax on the services.

SOURCE: Final Rulemaking published at 36 DCR 8057, 8067 (November 24, 1989).

476 - 477 [RESERVED]

478 **STREET VENDOR PAYMENT IN PLACE OF COLLECTING AND REMITTING SALES TAX**

- 478.1 A street vendor shall make payments to the Deputy Chief Financial Officer in place of collecting and remitting sales tax, as prescribed by this section, on sales made after September 30, 1993, regardless of the amount of taxable sales, if any, the street vendor makes during the year.

- 478.2 For the purposes of this section, the following terms shall have the meanings ascribed:

- (a) Class "A license," "Class A temporary license," "Class B license," "Class B temporary license," "Class C nonfood license," and "Class C food license" shall mean a Class A license, Class A temporary license, Class B license, Class B temporary license, Class C nonfood license, or Class C food license issued by the District of Columbia Department of Consumer and Regulatory Affairs and defined in §6(b)(1) through §6(b)(6) of A Regulation Governing Public Vending Space, enacted December 13, 1974 (Reg. 74-39; 24 DCMR §§502.4(a) through 502.4(f)); and
- (b) "Street vendor" shall mean a holder of a Class A license, Class A temporary license, Class B license, Class B temporary license, Class C nonfood license, Class C food license, or any combination of these licenses.

- 478.3 A street vendor shall not collect and remit sales tax on any sales made in the District of Columbia after September 30, 1993.

- 478.4 A street vendor who files annual sales tax returns shall file a final sales and use tax return on or before November 20, 1993, for the period January 1, 1993 through September 30, 1993.

- 478.5 A street vendor who files monthly sales tax returns shall file a final sales and use tax return on or before October 20, 1993, for the month of September, 1993.
- 478.6 Beginning in 1994, on or before January 20th, April 20th, July 20th, and October 20th of each year, a holder of a Class A license, Class B license, Class C food license, Class C nonfood license, or any combination of these licenses, shall make a three hundred and seventy-five dollar (\$375) payment to the Deputy Chief Financial Officer in place of collecting and remitting sales tax for the immediately preceding three (3) months.
- 478.7 An individual who holds a Class A or Class B temporary license after September 30, 1993 shall make a one hundred and twenty-five dollar (\$125) payment to the Deputy Chief Financial Officer on or before the tenth (10th) day following the expiration of the individual's temporary license in place of collecting and remitting sales tax for the temporary license period.
- 478.8 An individual who holds a combination of licenses listed in §478.6 or a combination of a license(s) listed in §478.6 and a temporary license(s) listed in §478.7, shall only be required to make a three hundred seventy five dollar (\$375) payment on each prescribed payment date specified in §478.6.
- Example 1: A street vendor who sells food and sweatshirts has both a Class A license and a Class B license. The street is only required to make a three hundred and seventy-five dollar (\$375) payment to the Deputy Chief Financial Officer on the prescribed payment dates.*
- Example 2: A street vendor who has a Class A license decides to obtain a Class B temporary license to sell Fourth of July souvenirs during the beginning of July. The vendor is only required to make a three hundred and seventy-five dollar (\$375) payment to the Deputy Chief Financial Officer on the prescribed payment dates.*
- 478.9 An individual who holds a combination of temporary licenses listed in §478.7 shall only be required to make a one hundred and twenty-five dollar (\$125) payment on the payment date prescribed in §478.7, unless the temporary licenses expire on different days.
- Example 1: A person obtains a Class A temporary license and a Class B temporary license. Both licenses expire on November 27, 1993. The individual is only required to make one (1) one hundred and twenty-five dollar (\$125) payment on or before December 7, 1993.*
- Example 2: A person obtains a Class A temporary license on December 21, 1993, that expires on December 26, 1993. On December 24th, the individual obtains a Class B temporary license that expires on December 30, 1993. The individual must make a payment of one hundred and twenty-five dollars (\$125) on or before January 5, 1994, and another payment of one hundred and twenty-five dollar (\$125) on or before January 9, 1994.*
- 478.10 A holder of a Class A license, Class B license, Class C food license, Class C nonfood license, or any combination of these licenses, who does not have a license for the full three (3) months preceding the month in which a payment in place of collecting and remitting sales tax is due shall *pro rate* his or her payment in place of collecting and remitting sales tax based upon the number of months, or



fraction of a month, in the three (3) preceding months the individual held his or her license.

*Example 1: An individual is granted a Class A license on December 15, 1993. The next payment is due January 20, 1994. The individual had a license for one (1) of the three (3) months preceding a month in which a payment is due. Consequently, the individual shall pay one third (1/3) of the quarterly payment in place of collecting and remitting sales tax, one hundred and twenty-five dollars (\$125) ( $\$375 \div 3$ ).*

*Example 2: An individual who has a Class A license decides to terminate his or her license on January 21, 1994. The individual had a license for a fraction of one (1) month preceding the next month in which a payment was to be made (April 20, 1994). Consequently, the individual shall pay one-third (1/3) of the quarterly payment in place of collecting and remitting sales tax, one hundred and twenty-five dollars (\$125) ( $\$375 \div 3$ ).*

- 478.11 A corporation that remits sales tax on sales made by certain street vendors shall not collect and remit sales tax on sales made by street vendors after September 30, 1993, but shall collect and remit sales tax on its other taxable sales. Every street vendor shall be individually responsible for making all payments in place of collecting and remitting sales tax.

*Example: A restaurant located in the District of Columbia employs a street vendor to sell its hot dogs from a cart on a District sidewalk. The restaurant is not required to report the sales of hot dogs from the cart after September 30, 1993, but is still required to report taxable sales made at its restaurant location.*

- 478.12 Every payment in place of collecting and remitting sales tax shall be made in cash or by cashier's check, certified check or money order.
- 478.13 A street vendor may continue to purchase tangible personal property for resale exempt from District sales tax by completing a District of Columbia Certificate of Resale and presenting it to the seller at the time of purchase.
- 478.14 After September 30, 1993, a street vendor shall not be required to file a cash bond or prepayment with surety with the Deputy Chief Financial Officer.
- 478.15 After September 30, 1993, a street vendor who has filed a bond or prepayment with surety with the Deputy Chief Financial Officer for any period of time may file for a refund of his or her vendor bond or release of his or her prepayment with surety by filing with the Deputy Chief Financial Officer a Claim for Refund Form (FR-331). A street vendor seeking a refund of a bond shall attach to his or her Claim for Refund Form an original cashier's receipt that indicates the amount of the bond and the date the bond was paid.
- 478.16 The Deputy Chief Financial Officer shall review all requests for refunds of cash bonds or releases of prepayments with surety made pursuant to §478.15 of this chapter. If the Deputy Chief Financial Officer determines that the street vendor is in compliance with all District tax laws, the Deputy Chief Financial Officer shall refund the street vendor's cash bond plus accrued interest or release the street vendor's prepayment with surety.

- 478.17 In accordance with D.C. Code §47-3310(c)(2), as amended, the Deputy Chief Financial Officer shall pay six percent (6%) per annum interest on the amount of a street vendor's cash bond from the date the vendor filed the bond with the Deputy Chief Financial Officer until the date of refund, except, no interest shall accrue after December 31, 1993, and no more than six (6) years of interest in total shall accrue.
- 478.18 If a street vendor fails to make a payment in place of collecting and remitting sales tax on or before the payment date, any amount of unpaid payment shall be assessed and collected as unpaid sales tax.
- 478.19 The Deputy Chief Financial Officer may impose interest on an unpaid payment in place of collecting and remitting sales tax or unpaid portion of a payment in place of collecting and remitting sales tax at the rate of one and five tenths percent (1.5%) per month, or fraction of a month, from the prescribed payment due date until the full payment is made.
- 478.20 The Deputy Chief Financial Officer may impose a penalty on an unpaid payment in place of collecting and remitting sales tax or unpaid portion of a payment in place of collecting and remitting sales tax at the rate of five percent (5%) per month, or fraction of a month, from the prescribed payment due date until the full payment is made. The total amount of penalty may not exceed twenty-five percent (25%) of the amount of the unpaid payment.
- 478.21 The Deputy Chief Financial Officer shall not issue a "Certificate of Good Standing" to a street vendor who fails to do the following:
- (a) Make all required payments in place of collecting and remitting sales tax and pay any associated interest and penalties; and
  - (b) Pay in full all other District tax liabilities, penalties and interest, if any.

SOURCE: Final Rulemaking published at 40 DCR 7534 (October 29, 1993).

479 [RESERVED]

**490 SALES AND USE TAXES ON THE SALE OF OR CHARGE FOR THE SERVICE OF PROCURING, OFFERING, OR ATTEMPTING TO PROCURE IN THE DISTRICT A JOB SEEKER FOR AN EMPLOYER OR EMPLOYMENT FOR A JOB SEEKER**

- 490.1 Any sale of or charge for the service of procuring, offering, or attempting to procure in the District a job seeker for an employer or employment for a job seeker provided after May 31, 1994, shall be subject to the sales and use taxes imposed in accordance with §125 of the District of Columbia Sales Tax Act and



§212 of the District of Columbia Use Tax Act, approved May 27, 1949 (63 Stat. 115 and 126; D.C. Code §§47-2002 and 47-2202).

490.2 The service of procuring, offering or attempting to procure a job seeker for an employer or employment for a job seeker shall include, but not be limited to, the following:

- (a) Employment advice;
- (b) Employment counseling;
- (c) Employment testing, including but not limited to, typing, aptitude, and dictation testing;
- (d) Resume preparation; and
- (e) Any other related service.

490.3 Any sale of or charge for the service of procuring, offering or attempting to procure a job seeker for an employer or employment for a job seeker shall be subject to the tax if the service is performed in the District.

*Example: An employment agency provides employment counseling to Customer C at its office located in the District. The service is performed in the District and the charge for the service shall be subject to the tax.*

490.4 The sales and use tax shall be imposed on the total amount of any sale of or charge for the service of procuring, offering, or attempting to procure in the District a job seeker for an employer or employment for a job seeker.

*Example: An employment agency administers an employment test for customer C. The employment agency bills Customer C twenty-five dollars (\$25) for administering the employment test. At the time the employment agency bills Customer C for the employment test, the employment agency shall also bill for the sales tax on the twenty-five dollars (\$25) charge for the employment test. The employment agency shall then remit the tax to the Deputy Chief Financial Officer in accordance with §§412 and 413 of this chapter and §§135 and 136 of the Sales Tax Act, approved May 27, 1949 (63 Stat. 118; D.C. Code §§47-2015 and 47-2016).*

490.5 The vendor shall separately state on the bill the charge for any service performed in the District and indicate the amount of sales tax on the charge.

*Example: An employment agency provides employment counseling, and employment advice and administers an employment test for Customer C. The counseling and advice are provided at the employment agency's office Located in the District. The employment test is administered at the employment agency's office located in Pennsylvania. The employment agency bills Customer C seventy-five dollars (\$75) for all services: (1) twenty-five dollars (\$25) for the counseling; (2) Twenty-five dollars (\$25) for the advice; and (3) twenty-five dollars (\$25) for the testing. The administration of the employment test was performed outside of the District and shall not be subject to the tax. However, the employment agency shall separately state on the bill the charge for the counseling and advice performed in the District and indicate the amount of the sales tax on those charges.*

*At the time the employment agency bills for the counseling and advice, it shall also bill for the sales tax on the fifty dollars (\$50) charge for the services performed in the District. The employment agency shall then remit the sales tax to the Deputy Chief Financial Officer in accordance with §§412 and 413 of this chapter and §§135 and 136 of the Sales Tax Act, approved May 27, 1949 (63 Stat. 118; D.C. Code §§47-2015 and 47-2016).*

- 490.6 Failure to separately state the charges for any taxable service performed in the District shall result in the taxation of the total charge for all services provided by the vendor which include any services subject to the tax pursuant to §490.1.

*Example: A vendor provides employment counseling for a customer at its office located in the District and administers an employment test at its office located in Virginia. The vendor bills the customer sixty dollars (\$60) for the services of providing the employment counseling and administering the test. Twenty dollars (\$20) represents the fee for the employment counseling and forty dollars (\$40) represents the fee for administering the employment testing. The bill only shows the total sixty dollars (\$60) charge for the counseling and testing services. Although only the charge for the employment counseling would be subject to the tax under this section, the tax shall be imposed on the total sixty dollars (\$60) charge since the bill does not separately state the fee for the taxable service.*

- 490.7 Any vendor, as defined in §493.5 of this chapter, that performs in the District the service of procuring, offering or attempting to procure in the District a job seeker for an employer or employment for a job seeker shall be considered to be engaged in business in the District.

*Example: An employment agency administers a typing test at its office located in the District. The employment agency bills the customer twenty dollars (\$20) for the typing test. The typing test is performed in the District and shall be subject to the sales tax. At the time the employment agency bills for the typing test, the employment agency shall also bill for the sales tax on the twenty dollars (\$20) charge for the typing test. The employment agency shall remit the tax to the Deputy Chief Financial Officer in accordance with §§412 and 413 of this chapter and §§135 and 136 of the Sales Tax Act, approved May 27, 1949 (63 Stat. 118; D.C. Code §§47-2015 and 47-2016).*

- 490.8 Any vendor, as defined in §493.5 of this chapter, engaged in business in the District shall collect and remit the D.C. sales tax on any sale of or charge for the service of procuring, offering or attempting to procure in the District a job seeker for an employer or employment for a Job seeker.

- 490.9 The vendor shall collect the total sales tax imposed on the sale of or charge for the service of procuring, offering, attempting to procure in the District a job seeker with an employer or employment for a job seeker once the service has been rendered and the first bill, invoice or receipt of payment is sent to the purchaser.

*Example A: A vendor provides employment counseling and advice and administers a typing and dictation test at its office located in the District. The vendor bills the client three hundred seventy-five dollars (\$375) for the services rendered in the District. The vendor mails client the bill for a first payment of one hundred dollars (\$100) due at the end of the month. The bill shall include the full amount of sales tax on the total three hundred seventy-five dollars (\$375) fee for the services rendered. The vendor shall remit the tax to the Deputy Chief Financial Officer in accordance with §§412 and 413 of this chapter and §§135 and 136 of the Sales Tax Act, approved May 27, 1949 (63 Stat. 118; D.C. Code §§47-2015 and 47-2016).*



*Example B: A vendor provides employment counseling and advice and administers a typing and dictation test at its office located in the District. The cost for rendering those services in the District is three hundred seventy-five dollars (\$375). The client pays for the service and is provided a receipt for payment. The receipt for payment shall include the full amount of the sales tax on the three hundred seventy-five dollars (\$375) for the services rendered. At the time the vendor provides the client the receipt for payment, the vendor shall also collect the sales tax. The vendor shall remit the tax to the Deputy Chief Financial Officer in accordance with §§412 and 413 of this chapter and §§135 and 136 of the Sales Tax Act, approved May 27, 1949 (63 Stat. 118; D.C. Code §§47-2015 and 47-2016).*

*Example C: A vendor provides employment counseling and advice and administers a typing test at its office located in the District. The vendor bills the client three hundred seventy-five dollars (\$375) for the services rendered in the District. The vendor mails its client the bill for full payment of the three hundred seventy-five dollars (\$375) charge for the services rendered in the District. The bill shall include the full amount of the sales tax on the charge for the services rendered in the District. The vendor shall remit the sales tax to the Deputy Chief Financial Officer in accordance with §§412 and 413 of this chapter and §§135 and 136 of the Sales Tax Act, approved May 27, 1949 (63 Stat. 118; D.C. Code §§47-2015 and 47-2016).*

- 490.10 Any purchaser that pays for the service of procuring, offering or attempting to procure in the District a job seeker for an employer or employment for a job seeker for which the sales tax was not collected and remitted to the Deputy Chief Financial Officer shall be subject to the use tax and shall remit the tax in accordance with §215 of the Use Tax Act, approved May 27, 1949 (63 Stat. 127; D.C. Code §47-2205).

*Example: An employment agency provides employment counseling and advice at its office located in the District. The employment agency bills The customer seventy-five dollars (\$75) for the counseling and advice. If at the time the employment agency bills the customer for the counseling and advice the employment agency fails to bill for the sales tax on the seventy-five dollars (\$75) charge, the customer shall become liable for the use tax and shall remit the tax to the Deputy Chief Financial Officer.*

- 490.11 Any sale of or charge for the service of procuring, offering, or attempting to procure a job seeker for an employer or employment for a job seeker that is performed outside of the District shall not be subject to the tax.

*Example: An employment agency provides employment counseling to customer C at its office located in Wisconsin. The employment agency bills Customer C sixty dollars (\$60) for the counseling. The service was performed outside of the District. Therefore, the sale for or charge of the service shall not be subject to the tax.*

SOURCE: Final Rulemaking published at 44 DCR 985 (February 21, 1997).

#### 491 SALES AND USE TAXES IMPOSED ON THE SALE OF OR CHARGE FOR PLACING A JOB SEEKER WITH AN EMPLOYER IN THE DISTRICT

- 491.1 The sale of or charge for placing a job seeker with an employer in the District which is provided after May 31, 1994, shall be subject to the sales and use taxes imposed in accordance with §125 of the District of Columbia Sales Tax Act and



§212 of the District of Columbia Use Tax Act, approved May 27, 1949 (63 Stat. 115 and 126; D.C. Code §§47-2002 and 47-2202).

- 491.2 The sales and use tax shall be imposed on the total amount of the sale of or charge for placing a job seeker with an employer in the District.

*Example: A vendor located in Virginia seeks and locates a secretarial position in the District for a customer. The vendor places the customer in the secretarial position in the District. The placement of the customer occurs in the District and the fee charged for the placement of the customer in the secretarial position in the District shall be subject to the tax.*

- 491.3 The vendor, as defined in §493.5 of this chapter, shall separately state on the bill the charge for any placement in the District and indicate the amount of sales tax on the charge.

*Example: An employment agency located in Wisconsin provides Customer C: employment testing, employment counseling and employment advice and places Customer C in a position located in the District. The testing, counseling, and advice are provided at the employment agency's office located in Wisconsin. Customer C is placed with an employer in the District. The employment agency bills Customer C two hundred dollars (\$200) for all services: (1) twenty-five dollars (\$25) for the testing; (2) twenty-five dollars (\$25) for the counseling; (3) twenty-five dollars (\$25) for the advice; and (4) one hundred twenty-five dollars (\$125) for the placement fee. The employment agency shall separately state on the bill the charge for the placement in the District and indicate the sales tax amount on that charge. At the time the employment agency bills for the one hundred twenty-five dollars (\$125) charged for the placement, it shall also bill for the sales tax on the one hundred twenty-five dollars (\$125) charge for the placement. The sales tax shall be remitted to the Deputy Chief Financial Officer in accordance with §§412 and 413 of this chapter and §§135 and 136 of the Sales Tax Act, approved May 27, 1949 (63 Stat. 118; D.C. Code §§47-2015 and 47-2016).*

- 491.4 Failure to separately state the charges for any service subject to the tax pursuant to §491.1 of this chapter shall result in the taxation of the total charge for all services provided by the vendor which include any services subject to the tax pursuant to §491.1.

*Example: An employment agency administers an employment test to a customer at its office located in Virginia. Later the agency searches for and locates in the District a management position for the customer. The customer is placed in the management position in the District and the employment agency bills the customer three hundred seventy-five dollars (\$375) for the services provided in the District. Seventy five dollars (\$75) represents the fee for administering the employment test and three hundred dollars (\$300) represents the fee for the placement. The bill only shows the total three hundred seventy-five dollars (\$375) fee for all services rendered. Although only the charge for the placement fee would be subject to the tax, the tax shall be imposed on the total three hundred seventy-five dollars (\$375) fee for the employment testing and placement since the bill does not separately state the charge for the taxable service.*

- 491.5 Any vendor, as defined in §493.5 of this chapter, engaged in business in the District shall collect and remit to the Deputy Chief Financial Officer the sales tax on any sale of or charge for the placement of a job seeker with an employer in the District.



- 491.6 Any purchaser that pays for the service of placing a job seeker with an employer in the District for which the sales tax was not collected and remitted to the Deputy Chief Financial Officer shall be subject to the use tax and shall remit the tax in accordance with §215 of the Use Tax Act, approved May 27, 1949 (63 Stat. 127; D.C. Code §47-2205).

*Example A: An employment agency located in Texas places a job seeker also located in Texas with its client employer located in the District. The employment agency bills the client employer two hundred dollars (\$200) for the placement. The placement occurred in the District and shall be subject to the sales tax. If at the time the employment agency bills the client employer for the two hundred dollars (\$200) placement charge, the employment agency fails to bill for the sales tax on the two hundred dollars (\$200) charge, the client employer shall become liable for the use tax and shall remit the tax to the Deputy Chief Financial Officer.*

*Example B: An employment agency located in Virginia places its client job seeker also located in Virginia with an employer located in the District. The employment agency bills the client job seeker two hundred dollars (\$200) for the placement. The placement occurs in the District and shall be subject to the tax. If at the time the employment agency bills the client job seeker for the two hundred dollars (\$200) placement charge the employment agency fails to bill for the sales tax on the charge, the client job seeker shall become liable for the use tax and shall remit the tax to the Deputy Chief Financial Officer.*

- 491.7 Any sale of or charge for a placement of a job seeker with an employer located outside of the District shall not be subject to the tax.

*Example: All employment agency located in the District places a job seeker also located in the District with its client employer located in Virginia. The placement occurs outside of the District and shall not be subject to the tax.*

SOURCE: Final Rulemaking published at 44 DCR 985, 989 (February 21, 1997).

## 492 EXEMPTIONS

- 492.1 The sale of or charge for any service of procuring, offering, or attempting to procure in the District a job seeker for an employer or employment for a job seeker or the service of placing a job seeker with an employer in the District to the United States or the District of Columbia governments, or any instrumentality of either, shall be exempt from the tax, in accordance with §417 of this chapter, if the vendor has provided proof of payment by and a purchase order from the United States or District of Columbia governments, or the instrumentality of either and has shown on the record of sale the following:

- (a) The instrumentality or agency to which the sale was made;
- (b) The amount of the sale; and
- (c) The date of the sale.

- 492.2 The sale of or charge for any service of procuring, offering, or attempting to procure in the District a job seeker for an employer or employment for a job

seeker or the service of placing a job seeker with an employer in the District to a semipublic institution for which the semipublic institution has presented a valid District of Columbia certificate of exemption shall be exempt from the tax, in accordance with §§417 and 418 of this chapter, if the vendor has provided proof of payment by the semipublic institution.

- 492.3 The sale of or charge for any service of procuring, offering, or attempting to procure in the District a job seeker for an employer or employment for a job seeker or the service of placing a job seeker with an employer in the District to a foreign government agency, diplomat, or employee or military personnel for which a valid United States Department of State Missions Tax Exemption Card or United States Department of State Tax Exemption Card issued pursuant to the Foreign Missions Act (22 U.S.C. 4310 shall be exempt from the tax, in accordance with §419 of this chapter.

SOURCE: Final Rulemaking published at 44 DCR 985, 991 (February 21, 1997).

## 499 DEFINITIONS

- 499.1 When used in this chapter, the following words and phrases shall have the meaning ascribed:

**Deputy Chief Financial Officer** - the Deputy Chief Financial Officer of the Office of Tax and Revenue.

**Employment** - an occupation or job by which a person earns income.

**Job Seeker** - any person who seeks employment whether the employment is full-time, temporary or part-time. Job Seeker shall not include an employee of any agency or entity where the employee is leased or assigned to work for a business or organization, provided the agency has issued a wage and tax statement (Form W-2) to the employee.

**Vendor** - shall have the same meaning as provided in §125 of the District of Columbia Sales Tax Act and §§201 through 211 of the District of Columbia Use Tax Act, approved May 27, 1949 (63 Stat. 115; D.C. Code §47-2002).

SOURCE: Final Rulemaking published at 44 DCR 985 (February 21, 1997).